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World Constitutions Illustrated

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Benin

**Constitution of the Republic of Benin, 1990
As Amended by Law No. 2019-40
of 7 November 2019**

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William S. Hein & Co., Inc.
Getzville, New York
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Law No. 2019-40 of 7 November 2019 amended the following Articles of the Constitution of 11 December 1990: 5, 15, 26, 40-45, 48-50, 52-54, 56, 62, 64, 65, 80-82, 92, 99, 112, 117, 119, 131, 132, 143, 145, and 151. The following new Articles were inserted: 54-1, 62-1 to 62-4, 134-1 to 134-6, 151-1, 153-1 to 153-3, 157-1 to 157-3. A new heading for Title VI, I-1 was also inserted. The amending law also specifies that a new heading for Title VI, I-2 is to be inserted. However, the amending law does not provide for its placement. It is possible that the previous heading Title VI, II: Of the High Court of Justice, is to be so changed, but absent a new consolidated text, the original scheme has been retained here. A new heading for Title X-1 was also inserted.

The translation of the amended Articles is based on the text of the amending law made available at the web portal of the Secretariat General of the Government of Benin: <https://sgg.gouv.bj> [consulted November 2019].

The translation of the original text for *World Constitutions Illustrated* was based on the French text published in December 1990 by the *Office National d'Edition de Press* (ONEPI) and the official French text of the Government published and distributed for the Referendum of 2 December 1990, both provided by the Law Library of Congress. The following electronic texts were also consulted: that of the Government: www.gouv.bj; that of the *Espace francophone des Droits de l'Homme de la Démocratie et de la Paix*: [//democratie.francophonie.org](http://democratie.francophonie.org); and that at the web site of Jean-Pierre Maury: *Constitutions du monde en langue française, DigiThèque MJP*: [//mjp.univ-perp.fr/constit/constitintro.htm](http://mjp.univ-perp.fr/constit/constitintro.htm).

It should be noted that these texts are not in total agreement in all of their details. The differences are not substantive, being attributable to editorial preference or typographical error.

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Law No. 90-32 of 11 December 1990
Concerning the Constitution of the Republic of Benin

The High Council of the Republic,
in accordance with the Constitutional Law of 13 August 1990,
has proposed,
The Beninese People
have adopted by Constituent Referendum of 2 December 1990,
The President of the Republic
promulgates the Constitution with the following wording:

PREAMBLE

Dahomey, proclaimed a Republic on 4 December 1958, acceded to international sovereignty on 1 August 1960. It became the People's Republic of Benin on 30 November 1975, and then the Republic of Benin on 1 March 1990, [and] has experienced a constitutional evolution and political development since its accession to independence, [in which] only the option in favor of the Republic remained perennial.

The successive changes of political regimes and of governments have not blunted the determination of the Beninese People to look to its own genius, [to] the values of a cultural, philosophical and spiritual civilization which animated the forms of its patriotism.

Therefore, the Conference of Living Forces of the Nation, held at Cotonou, from 19 to 28 February 1990, in restoring confidence to the People, has permitted the national reconciliation and the advent an era of Democratic Renewal.

As a result of this Conference,

WE, the Beninese People,

- Reaffirm our fundamental opposition to any political regime founded on arbitrariness, dictatorship, injustice, corruption, extortion, regionalism, nepotism, the seizure of power and personal power;
- We express our firm determination to defend and preserve our dignity in the eyes of world and to reestablish the role of pioneer of democracy and of the defense of the rights of man that were once ours;
- Solemnly affirm our determination by this Constitution to create a State of law and pluralist democracy in which the fundamental rights of man, the public freedoms, [and] the dignity and justice of the human person are guaranteed, protected and promoted as a necessary condition for the true and harmonious development of every Beninese in their temporal, cultural and spiritual dimension;
- Reaffirm our commitment to the principles of democracy and of the rights of man which have been defined by the Charter of the United Nations 1945 and the Universal Declaration of the Rights of Man of 1948, the African Charter of the Rights of Man and of Peoples adopted in 1981 by the Organization of African Unity, [which was] ratified by Benin on 20 January 1986 and whose provisions are made an integral part of this Constitution and of Beninese law and which have a standing superior to the internal law;
- Affirm our resolve to cooperate in peace and friendship with all people who share our ideals of freedom, of justice, of human solidarity, on the basis of

principles of equality, of reciprocal interest and of mutual respect of national sovereignty and territorial integrity;

– Proclaim our commitment to the cause of African Unity and our engagement with all to implement the realization of sub-regional and regional integration.

Adopt solemnly this Constitution which is the supreme law of the State and to which we swear loyalty, fidelity and respect.

TITLE I

OF THE STATE AND OF SOVEREIGNTY

Article 1

The State of Benin is an independent and sovereign Republic.

The Capital of the Republic of Benin is Porto-Novo.

The National Emblem is the tricolor green, yellow and red flag. Starting from the pole, a green band along the entire height and two-fifths of its length, two equal horizontal bands: the superior [is] yellow, the inferior [is] red.

The Hymn of the Republic is “L’Aube Nouvelle”.

The motto of the Republic is “Fraternité–Justice–Travail” [Fraternity-Justice-Work].

The official language is French.

The Seal of the State, constituted by a disk of one hundred twenty millimeters of diameter, represents:

– on the obverse, a pirogue charged with six stars of five points moving [*voguant*] on the waves, accompanied above by a bow and arrow inverted [*en palm*] supported by two ceremonial staffs [*récades*] saltire, and below by a banderole carrying the motto “Fraternité–Justice–Travail” and, surrounding [it], the inscription “République du Bénin”;

– and on the reverse a divided shield in the first [part] of sinople, in the second part of gold and of gules, which are the three colors of the flag, the shield surrounded by two palms proper with trunks saltire.

The Coat-of-Arms of Benin are:

- Quartered[,] in the first quarter a Somba fortress of gold;
- In the second [quarter,] argent a Star of Benin proper[,] that is to say a cross of eight points of azure angled as rays and of sable outlined;
- In the third [quarter,] argent a palm of sinople charged with fruit gules;
- In the fourth [quarter,] argent a black ship sailing on the sea of azure[:] with on the quartering lines passing from the sides a diamond [*losange*] gules;
- Supporters: two spotted panthers of gold [rampant];
- Crest [*timbre*]: two cornucopias of sable from which spill ears of corn;
- Motto: Fraternité–Justice–Travail in sable characters on a banderole.

Article 2

The Republic of Benin is one and indivisible, secular and democratic.

Its principle is: Government of the People, by the People and for the People.

Article 3

National sovereignty belongs to the People. No fraction of the People, no community, no corporation, no political party or association, no union organization or any individual may arrogate its exercise.

Sovereignty is exercised in accordance with this Constitution which is the Supreme Law of the State.

Any law, any regulatory text and any administrative act contrary to these provisions is null and void. In consequence, any citizen has the right to present himself before the Constitutional Court against the laws, texts and acts presumed unconstitutional.

Article 4

The People exercise their sovereignty by their elected representatives and by way [voie] of referendum. The conditions of recourse to the referendum are determined by this Constitution and by an organic law.

The Constitutional Court sees to the regularity of the referendum and proclaims the results of it.

Article 5

[Amended by Law No. 2019-40 of 7 November 2019]

The political parties concur in the exercise of suffrage. They are formed and exercise their activities freely within the conditions determined by the Charter of Political Parties [*Charte des Partis politiques*]. They must respect the principles of national sovereignty, of democracy, of the territorial integrity and of the secularity of the State.

The State concurs in the financing of the political parties in the conditions established by the law. The amount allocated for this purpose may not decrease from one budgetary fiscal year to another. However, in the case of a decrease of the specific resources of the general budget of the State, the allocation may be reduced in the same proportions.

Article 6

Suffrage is universal, equal and secret. Within the conditions determined by the law, all Beninese nationals of the two sexes having attained eighteen years of age and enjoying their civil and political rights[,] are electors.

TITLE II

OF THE RIGHTS AND DUTIES OF THE HUMAN PERSON

Article 7

The rights and the duties proclaimed and guaranteed by the African Charter of the Rights of Man and of Peoples adopted in 1981 by the Organization of African Unity and ratified by Benin on 20 January 1986 are made an integral part of this Constitution and of Beninese Law.

Article 8

The human person is sacred and inviolable.

The State has the absolute obligation to respect it and to protect it. It guarantees to him a full realization. To this effect, it assures to its citizens the equal access to health, to education, to culture, to information, to vocational training and to employment.

Article 9

Every human being has the right to the development and full realization of [their] person in [their] material, temporal, intellectual and spiritual dimensions, as long as it neither violates the rights of others or infringes the constitutional order and good morals.

Article 10

Every person has the right to culture. The State has the duty to safeguard and to promote the national values of civilization, both material and spiritual, as well as the cultural traditions.

Article 11

All the communities comprising the Beninese Nation enjoy the freedom to use their spoken and written languages and to develop their own culture while respecting those of others.

The State must promote the development of national languages of intercommunication.

Article 12

The State and public collectivities guarantee the education of children and create conditions favorable to this objective.

Article 13

The State provides for the education [*éducation*] of youth by the public schools. Primary education [*enseignement*] is obligatory. The State assures, progressively, the gratuity of public education.

Article 14

The religious institutions and communities may equally concur in the education of youth. Private schools, secular or religious, may be opened with the authorization and control of the State. The private schools may benefit from subsidies [*subventions*] of the State within the conditions determined by the law.

Article 15

[Amended by Law No. 2019-40 of 7 November 2019]

Every individual has the right to life, to liberty, to the security and to the integrity of [their] person.

No one may be condemned to the penalty of death.

Article 16

One may only be arrested or charged [*inculpé*] by virtue of a law promulgated prior to the acts of which he is accused.

No citizen may be forced into exile.

Article 17

Any person accused of a criminal [*délictueux*] act is presumed innocent until [their] culpability has been legally established in the course of a public process during which all the necessary guaranties to [their] free defense have been assured to [them].

No one will be condemned for actions or omissions which, at the time at which they were committed, did not constitute an infraction before the national law. Likewise, [they] cannot be inflicted with a penalty greater than that which was applicable at the time the infraction was committed.

Article 18

No one may be submitted to torture, or to cruel, inhuman or degrading measures [*séviçes*] or treatments.

No one has the right to prevent a detained [person] or an accused [person] from being examined by a doctor of their choice.

No one may be detained in a prison if it does not fall under the effect [*coup*] of a penal law in force.

No one may be detained for a period greater than forty-eight hours unless by the decision of a magistrate before whom he must be presented. This period may be prolonged only in exceptional cases provided by the law and which cannot exceed a period greater than eight days.

Article 19

Any individual, or any agent of the State who is guilty of an act of torture, of cruel, inhuman or degrading measures or treatment in the exercise or in connection with the exercise of their functions, either on their own initiative, or on instruction, will be punished according to the law.

Any individual, any agent of the State shall be relieved of the duty of obedience when the order received constitutes a grave and manifest infringement [*atteinte*] to the respect of the rights of Man and of the public freedoms.

Article 20

The domicile is inviolable. Entry of the domicile or searches may only be effected within the forms and conditions provided for by the law.

Article 21

The secrecy of correspondence and of communications is guaranteed by the law.

Article 22

Every person has the right to property. One may only be deprived of his property for [a] cause of public utility and with [*contre*] just and prior compensation [*dédommagement*].

Article 23

Every person has the right to freedom of thought, of conscience, of religion, of belief [*culte*], of opinion and of expression within respect for public order established by the law and the regulations. The exercise of belief and of expression of beliefs [*croyances*] shall be effected within respect for the secularity of the State.

The institutions, the religious or philosophical communities, have the right to develop themselves unimpeded. They are not subject to the supervision [*tutelle*] of the State. They regulate and administer their affairs in an autonomous manner.

Article 24

The freedom of [the] press is recognized and guaranteed by the State. It is protected by the High Authority of Broadcasting and of Communication [*Haute Autorité de l'Audio-Visuel et de la Communication*] within the conditions established by an organic law.

Article 25

The State recognizes and guarantees, within the conditions established by the law, the freedom of movement [*aller et venir*], the freedom of association, of assembly, of procession [*cortège*], and of demonstration.

Article 26

[Amended by Law No. 2019-40 of 7 November 2019]

The State assures to all equality before the law, without distinction of origin, of race, of sex, of religion, of political opinion or of social position.

The man and the woman are equal in law. However, the law may establish special provisions for amelioration of the representation of the people by women.

The State protects the family, particularly the mother and the child. It assists the persons having *[porteuses]* handicaps as well as the elderly.

Article 27

Every person has the right to a healthy, satisfactory and sustainable environment and has the duty to defend it. The State sees to the protection of the environment.

Article 28

The storage, handling and disposal of toxic waste or pollutants originating from factories and other industrial or artisanal sources *[unités]* situated on the national territory are regulated by the law.

Article 29

The transit, importation, storage, dumping [or] spill, on the national territory, of toxic waste or foreign pollutants, and any agreement related [to it] constitute a crime against the Nation. The applicable penalties are defined by the law.

Article 30

The State recognizes to all the citizens the right to work and strives to create the conditions that render the enjoyment of this right effective[,] and guarantees to the worker fair compensation for [his] services or for [his] production.

Article 31

The State recognizes and guarantees the right to strike. Any worker may defend, within the conditions provided by the law, [his] rights and [his] interests either individually or collectively or by trade union action. The right to strike is exercised within the conditions defined by the law.

Article 32

The defense of the Nation and of the integrity of the territory of the Republic is a sacred duty for each Beninese citizen.

Military service is obligatory. The conditions for accomplishing this duty are determined by the law.

Article 33

All citizens of the Republic of Benin have the duty to work for the common good, to fulfill all their civic and professional obligations, [and] to pay their taxes.

Article 34

Any citizen of Benin, civil or military, has the sacred duty to respect, in all circumstances, the Constitution and the established constitutional order as well as the laws and regulations of the Republic.

Article 35

The citizens charged with a public function or elected to a political function have the duty to accomplish it with conscience, competence, probity, dedication and loyalty in the interest and respect for the common good.

Article 36

Each Beninese has the duty of respect for and consideration of his fellow [man] without any discrimination and of maintaining with others relations that permit the safeguarding, the reinforcing, and the promotion of reciprocal respect, dialogue and tolerance with a view to peace and to national cohesion.

Article 37

The public good is sacred and inviolable. Each Beninese citizen must scrupulously respect it and protect it. Any act of sabotage, of vandalism, of corruption, of embezzlement, of misappropriation, or of illicit enrichment, is punished [*réprimé*] within the conditions provided for by the law.

Article 38

The State protects the legitimate rights and interests of the Beninese citizens abroad.

Article 39

Foreigners enjoy in the territory of the Republic of Benin the same rights and freedoms as Beninese citizens, and this within the conditions determined by the law. They are required to conform to the Constitution, to the laws and to the regulations of the Republic.

Article 40

[Amended by Law No. 2019-40 of 7 November 2019]

The State has the duty to assure the dissemination and the teaching of the Constitution, of the Universal Declaration of the Rights of Man of 1948; of the African Charter of the Rights of Man and of Peoples of 1981 as well as all international instruments duly ratified and relative to the Rights of Man.

The State must integrate the rights of the human person into the programs of literacy and of teaching at the various scholarly and university levels [*cycles*] and in the training programs of the Defense Forces, Forces of the Public Security and Similar [*Forces*][*Assimilés*].

The State must equally assure, by all means of mass communication, in particular by radio and television broadcasting[,] the diffusion and teaching of these same rights in the national languages.

Title III

OF THE EXECUTIVE POWER

Article 41

[Amended by Law No. 2019-40 of 7 November 2019]

The President of the Republic is the Head of State. He is the elect [*l'élu*] of the Nation and embodies the national unity.

He is the guarantor of national independence of the territorial integrity and of respect for the Constitution, treaties and international agreements.

A Vice President of the Republic assures the vacancy of the presidency of the Republic within the conditions established in Article 50 of this Constitution.

Article 42

[Amended by Law No. 2019-40 of 7 November 2019]

The President of the Republic is elected by direct universal suffrage for a mandate of five years, renewable one sole time.

In no case, may one, in their life, exercise more than two mandates of President of the Republic.

Article 43

[Amended by Law No. 2019-40 of 7 November 2019]

The President of the Republic is elected in *duo* [*en duo*/jointly] with a Vice President of the Republic. The election of the *duo* President of the Republic and Vice President of the Republic takes place by majority ballot in two (02) rounds.

Article 44

[Amended by Law No. 2019-40 of 7 November 2019]

No one can be a candidate to the function of the President of the Republic or Vice President of the Republic if:

- [they are] not of Beninese nationality by birth or have acquired [it for] at least ten years;
- [they are] not of good morals and of grand probity;
- [they] do not enjoy all their civil and political rights;
- [they] are not at least already 40 years old and at most already 70 years old at the date of entering into [their] function;
- [they were] elected two (02) times President of the Republic and exercised two mandates as such;
- [they were] not present in the Republic of Benin at the time of the deposit of their candidature;
- [they] do not enjoy a complete state of physical and mental well-being duly stated by a board [*collège*] of three (03) doctors designated under oath by the Constitutional Court.
- [they] are not duly sponsored [*parrainé*/supported] by [persons] elected within the conditions and following the modalities established by the law.

Article 45

[Amended by Law No. 2019-40 of 7 November 2019]

The *duo* President of the Republic and Vice President of the Republic are elected with the absolute majority of the suffrage expressed. If it is not obtained in the first round of the ballot, it proceeds to the organization of a second round.

The two *duos* of candidates who have received the greatest number of votes in the first round of the ballot are admitted in the second round.

In case of withdrawal of a *duo*, the subsequent [*suivants*] *duos* are retained in the order of ranking after the first round.

The withdrawal, the incapacity or the death of a candidate to the functions of President of the Republic invalidates the candidature of the *duo* when these events occur after the deposit of candidature.

In the case of withdrawal, of incapacity or of death of a candidate to the function of Vice President of the Republic after the deposit of candidature, the candidate to the function of President of the Republic provides, if possible, for his replacement in accordance with the conditions provided for in Article 44 of the Constitution, that relating to sponsorship [*parrainage*/support] excepted.

The candidates of the *duo* having obtained the greatest number of votes are declared elected in the second round to the functions of President of the Republic and Vice President of the Republic,

The candidates of a *duo* remaining alone in contention in the second round as a result of withdrawals, of incapacities or of deaths of candidates are proclaimed elected to the functions of President of the Republic and Vice President of the Republic.

The President of the Republic elected alone within the conditions of paragraph 5 above[,] designates, at the latest, forty-eight (48) hours after the taking of [the] oath and after the consultative opinion of the Bureau of the National Assembly, a Vice President of the republic in accordance with the provisions of Article 44 of the Constitution, that relating to sponsorship [*parrainage/support*] excepted.

Article 46

[Abrogated [supprimés] by Law No. 2019-40 of 7 November 2019]

Article 47

[Abrogated [supprimés] by Law No. 2019-40 of 7 November 2019]

Article 48

[Amended by Law No. 2019-40 of 7 November 2019]

The law establishes the conditions of eligibility, of presentation of the candidatures, of the conduct of the ballot, [and] of the counting and proclamation of the results of the election of the *duo* President of the Republic and Vice President of the Republic.

The law establishes the civil list of the President of the Republic and of the Vice President of the Republic and determines the pension to allocate to the former Presidents of the Republic and to the former Vice Presidents of the Republic.

However, as of [*pour compter*] the promulgation of this Constitution, only the Presidents of the Republic and the Vice Presidents of the Republic constitutionally elected may benefit from the provisions of the preceding paragraph.

Article 49

[Amended by Law No. 2019-40 of 7 November 2019]

The Constitutional Court sees to the regularity of the ballot and declares the results of it.

The election of the *duo* President of the Republic and Vice President of the Republic is made the object of a provisional proclamation.

If no protest relative to the regularity of the electoral operations has been deposited at the Office [*Greffe*] of the Constitutional Court by one of the candidates within five (05) days of the provisional proclamation, the Constitutional Court declares the *duo* President of the Republic and Vice President of the Republic definitively elected.

In [the] case of dispute, the Constitutional Court is required to decide [*statuer*] within ten days (10) [from] the provisional proclamation; its decision establishes [*emporte*] definitive proclamation or annulment of the election.

If no protest has been raised in the period of five days (05) and if the Constitutional Court is of the opinion [*estime*] that the election has not been subject to any irregularity of a nature leading to its annulment, it proclaims the election of the *duo* President of the Republic and Vice President of the Republic.

In case of annulment, it will proceed to a new round of the ballot within fourteen (14) days of the decision.

Article 50

[Amended by Law No. 2019-40 of 7 November 2019]

In case of vacancy of the Presidency of the Republic by death, resignation or definitive impediment, the National Assembly meets to decide on the case with the absolute majority of its members. The President of the National Assembly refers [the matter] to the Constitutional Court which establishes and declares the vacancy of the Presidency of the Republic. The functions of President of the Republic are exercised by the Vice President of the Republic for the rest of the duration of the mandate in course. He immediately takes the oath specified in Article 53 of the Constitution.

He designates at the latest forty-eight (48) hours after having taken the oath, and after the consultative opinion of the Bureau of the National Assembly, a new Vice President of the Republic in accordance with the provisions of Article 44, that relating to sponsorship [*parrainage/support*] excepted.

In the case he dies, resigns or is permanently incapacitated before the designation of the new Vice President of the Republic, the President of the National Assembly refers [the matter] to the Constitutional Court, which declares the death, resignation or permanent incapacity of the elected Vice President, the absence of a Vice President of the Republic, and the vacancy of the Presidency of the Republic. The functions of President of the Republic are exercised by the President of the National Assembly and it elects a new President.

It is the same in the case where the President of the Republic elected alone within the conditions of paragraph 5 of Article 45 dies, resigns or is permanently incapacitated before the designation of the Vice President of the Republic.

Article 51

The functions of President of the Republic are incompatible with the exercise of any other elective mandate, of any public, civil or military employment and of any professional activity.

Article 52

[Amended by Law No. 2019-40 of 7 November 2019]

In their functions, the President of the Republic and the members of the Government may not by themselves, or by an intermediary[,] buy or lease anything that belongs to the domain of the State, without prior authorization of the Constitutional Court within the conditions established by the law.

They are required, when they enter into their function and at the end of it[,] to make on their honor a written declaration of all their assets and patrimony addressed to the President of the Court of Accounts.

They may not take part in the supply contracts [*marché d'fournitures*] and the awards [*adjudications*] of the administrations or institutions relevant to the State of submitted to their control.

Article 53

[Amended by Law No. 2019-40 of 7 November 2019]

Before his entry into [his] function, the President of the Republic takes the following oath:

“Before God, the Spirits of the Ancestors, the Nation and before the Beninese People, the sole holders of sovereignty:

We _____, President of the Republic, elected conforming to the laws of the Republic, solemnly swear

- to respect and defend the Constitution that the Beninese People have freely given;
 - to loyally fulfill the high functions that the Nation has entrusted to us;
 - to be guided by the general interest and respect for the rights of the human person, to devote all our strength to the search for and the promotion of the common good, of peace and of national unity;
 - to preserve the integrity of the national territory;
 - to conduct [our self] throughout as a faithful and loyal servant of the People.
- In case of perjury, that we will submit to the rigors of the law.”*

The oath is received by the President of the Constitutional Court before the National Assembly, the Supreme Court and the Court of Accounts.

Article 54

[Amended by Law No. 2019-40 of 7 November 2019]

The President of the Republic is the holder of the executive power. He is the head of the Government and in this capacity he determines and conducts the policy of the Nation. It exercises the regulatory power.

He directs [*dispose*] the Administration and the Forces of Defense and of Security.

An organic law establishes the principles of organization, of functioning and of control of the Public Administration.

Notwithstanding the provisions of Article 97 of the Constitution, the proposal, the amendments to a proposal or to a bill of an organic law on the Administration are only submitted to the deliberation and to the vote of the National Assembly after the conforming opinion of the President of the Republic.

He is responsible for the national defense.

He appoints, after consultative opinion of the Bureau of the National Assembly, the members of the Government. He establishes their attributions and terminates their functions.

The members of the Government are responsible to him.

The functions of member of the Government are incompatible with the exercise of any parliamentary mandate, of any public, civil or military employment and of any professional activity.

The acts of the President of the Republic[,] other than those provided for in Articles 60 and 115[,] are countersigned by the Ministers charged with their execution.

The President of the Republic may not delegate any of his attributions to the Vice President of the Republic.

The Vice President of the Republic may be removed from his functions by the National Assembly on [being] referred to [the matter] by the President of the Republic for grave infringement [*manquement*].

The act of referral to [the matter] of the National Assembly by the President of the Republic must indicate the name of the proposed new Vice President of the Republic in accordance with the provisions of Article 44[,] that relating to sponsorship [*parrainage/support*] excepted.

The dismissal of the Vice President of the Republic and the designation of his substitute are obtained by [one] same vote with the qualified majority of two-thirds (2/3) of the members composing the National Assembly.

Article 54-1

[Inserted by Law No. 2019-40 of 7 November 2019]

The Vice President of the Republic is not a member of the Government. He represents the President of the Republic, at [his] demand, inside or outside of the national territory.

He is the Grand Chancellor of the National Order [*Grand Chancelier de l'Ordre National*].

The functions of Vice President of the Republic are incompatible with the exercise of any other elective mandate, of any public, civil or military employment and of any other professional activity.

Article 55

The President of the Republic presides over the Council of Ministers.

The Council of Ministers deliberates obligatorily on:

- the decisions determining the general policy of the State;
- the Bills of law;
- the ordinances and the regulatory decrees.

Article 56

[Amended by Law No. 2019-40 of 7 November 2019]

The President of the Republic appoints three (03) of the seven (07) members of the Constitutional Court.

After the opinion of the President of the National Assembly, he appoints in the Council of Ministers: the President of the Supreme Court, the President of the Court of Accounts, [and] the President of the High Authority of Broadcasting and of Communication.

He equally appoints in the Council of Ministers: the members of the Supreme Court; the members of the Court of Accounts; the ambassadors, the envoys extraordinary, the magistrates, the General and Superior Officers; [and] the high functionaries of which the list is established by an organic law.

Article 57

The President has the initiative of law concurrently with the members of the National Assembly.

He assures the promulgation of the laws within the fifteen days which follow [their] transmission to him which is made by the President of the National Assembly.

This time period is reduced to five days in case of urgency declared by the National Assembly.

He may, before the expiration of these time periods, demand of the National Assembly a second deliberation of the law or certain of its articles. This second deliberation may not be refused.

If the National Assembly is at the end of the session, this second deliberation takes place[,] of office[,] when the next ordinary session follows.

The vote for this second deliberation is acquired by the absolute majority of members composing the National Assembly. If after this latter vote, the President of the Republic refuses to promulgate the law, the Constitutional Court, referred to

[the matter] by the President of the National Assembly, declares the law executory if it conforms to the Constitution.

The same procedure of implementation is followed when[,] at the expiration of the time period of promulgation of fifteen days specified in paragraph 2 of this Article, there has been neither promulgation nor demand for a second reading.

Article 58

The President of the Republic, after consultation with the President of the National Assembly and of the President of the Constitutional Court, can take the initiative of referendum on any question relative to the promotion and to the strengthening of the Rights of Man, to sub-regional or regional integration and to the organization of the public powers.

Article 59

The President of the Republic assures the execution of the laws and guarantees those of the decisions of justice.

Article 60

The President of the Republic has the right of pardon. He exercises this right within the conditions defined by Article 130.

Article 61

The President of the Republic accredits the Ambassadors and Extraordinary Envoys to foreign powers; the Ambassadors and the Extraordinary Envoys of foreign powers are accredited to him.

Article 62

[Amended by Law No. 2019-40 of 7 November 2019]

The President of the Republic is the Supreme Head of the Armies. He is responsible for the national security. He is assisted by the National Council of Defense and of Security and by the National Council of Intelligence [*Conseil national du renseignement*] of which he appoints the members in the Council of Ministers.

Article 62-1

[Inserted by Law No. 2019-40 of 7 November 2019]

The National Council of Defense and of Security defines the orientations in the matter of military programming, of conducting operations of planning of responses to major crises, of intelligence, of economic and energy security, of programming of internal security concurring with national security and with the fight against terrorism. It establishes the priorities of it.

Article 62-2

[Inserted by Law No. 2019-40 of 7 November 2019]

The National Council of Defense and of Security is presided over by the President of the Republic. It includes:

- the minister responsible for national defense;
- the minister responsible for security;
- the minister responsible for finance;
- the minister responsible for foreign affairs;
- the high military command and [command] of security.

The organization and the functioning of the National Council of Defense and of Security are established by decree.

Article 62-3

[Inserted by Law No. 2019-40 of 7 November 2019]

The National Council of Intelligence is presided over by the President of the Republic. It includes:

- the minister responsible for security;
- the minister responsible for defense;
- the minister responsible for foreign affairs;
- the minister responsible for finance;
- the minister responsible for justice;
- the [person] responsible for the services of intelligence.

Article 62-4

[Inserted by Law No. 2019-40 of 7 November 2019]

The National Council of Intelligence defines the essential missions, the strategies and the priorities assigned to the services of intelligence.

The organization and the functioning of the National Council of Intelligence are established by decree.

Article 63

The President of the Republic can, in addition to the specialized functions of defense of the territorial integrity assigned [*dévolues*] to the Army, have it assist in the economic development of the Nation and any other tasks of public interest within the conditions defined by the law.

Article 64

[Amended by Law No. 2019-40 of 7 November 2019]

Any member of the Defense Forces or of [the Forces of] Public Security who desires to be a candidate to the functions of President of the Republic must have previously given his resignation to the Defense Forces or [the Forces of] Public Security.

In this case the interested [person] can claim any benefits of law acquired in accordance with the statutes of his corps.

Article 65

[Amended by Law No. 2019-40 of 7 November 2019]

Any attempt to overthrow the constitutional regime by the personnel of the Defense Forces or of [the Forces of] Public Security will be considered as a breach of office [*forfaiture*] and a crime against the Nation and the State and will be sanctioned according to the law.

Article 66

In the case of a coup d'état, of a putsch, of aggression by mercenaries or of any coup of force whatever, any member of a constitutional organ has the right and the duty to make use of [*faire appel*] all means to reestablish the constitutional legitimacy[,] including the recourse to existing military cooperation or defense agreements.

In these circumstances, for all Beninese, to disobey and to organize to defeat the illegitimate authority constitutes the most sacred of rights and the most imperative of duties.

Article 67

The President may not make use of foreign Armed Forces or Police to intervene in an internal conflict except in cases provided for in Article 66.

Article 68

When the institutions of the Republic, the independence of the Nation, the integrity of the national territory or the execution of international commitments are threatened in a grave and immediate manner and [when] the regular functioning of the constitutional powers is threatened or interrupted, the President of the Republic, after consultation with the President of the National Assembly and of the President of the Constitutional Court, takes in the Council of Ministers the exceptional measures required by the circumstances without the rights of citizens guaranteed by the Constitution being suspended.

He informs the Nation of it by a message.

The National Assembly meets of plain right in extraordinary session.

Article 69

The measures taken must be inspired by the will to assure to the public and constitutional powers[,] within the least time period, the means to accomplish their mission.

Article 70

The President of the Republic can delegate certain of his powers to the Ministers except those specified in Articles 54 paragraph 3, 60, 61, 101, 115, 133 and 144.

Article 71

The President of the Republic or any member of his Government can, in the exercise of their governmental functions, be interpellated by the National Assembly.

The President of the Republic responds to these interpellations by himself or by one of the Ministers that he specifically delegates to the National Assembly.

In this circumstance, the National Assembly can take a resolution to make recommendations to the Government.

Article 72

The President of the Republic addresses one time per year a message to the National Assembly on the state of the Nation.

He may also[,] at any time[,] address messages to the National Assembly. These messages do not give rise to any debate; however, they may inspire the work of the Assembly.

Article 73

The personal responsibility of the President of the Republic is engaged in case of high treason, of contempt [*outrage*] of the Assembly, or of damage to honor or probity.

Article 74

There is high treason when the President has violated his oath[,] is identified as author, co-author or accomplice of grave and characterized violations of the Rights of Man, of cession of part of the national territory or of an act prejudicial to

[*attentatoire*] the maintenance of a healthy environment, satisfactory, sustainable [*durable*] and conducive to development.

Article 75

There is damage [*atteinte*] to honor and probity notably where the personal comportment of the President of the Republic is contrary to good morals or when he is identified as the author, co-author or accomplice of malfeasance, of corruption, [or] of illicit enrichment.

Article 76

There is contempt of the National Assembly when, on questions raised by the National Assembly on the governmental activity, the President of the Republic does not furnish any response within a time period of thirty days.

Article 77

After this time period, the President of the National Assembly refers the Constitutional Court to [the matter] of this grave breach of the constitutional provisions.

The Constitutional Court decides within three days. The President of the Republic is required to furnish answers to the National Assembly within the most brief time and in any case before the end of the current session.

At the expiration of this time period, if nothing has been done by the President of the Republic [as a result of] the decision of the Court, the President of the Republic is brought before the High Court of Justice for contempt of the National Assembly.

Article 78

The acts specified in Articles 74 and 77 will be prosecuted and punished according to the provisions of Articles 136 and 138 of this Constitution.

Title IV

OF THE LEGISLATIVE POWER

I - OF THE NATIONAL ASSEMBLY

Article 79

The Parliament is constituted by a sole Assembly called the National Assembly whose members have the title of Deputy.

It exercises the legislative power and controls the action of the Government.

Article 80

[Amended by Law No. 2019-40 of 7 November 2019]

The Deputies are elected by universal direct suffrage. The duration of the mandate is of five (05) years renewable two (02) times. Each Deputy is the representative of the entire Nation and any imperative mandate is null.

Article 81

[Amended by Law No. 2019-40 of 7 November 2019]

The law establishes the number of members of the National Assembly, the conditions of eligibility, the minimum of votes to obtain by the lists of candidatures at national level [*plan*] to be eligible to the attribution of seats, the regime of incompatibilities and the conditions within which vacant seats are provided for.

The Constitutional Court decides sovereignly on the validity of the election of the Deputies.

Article 82

[Amended by Law No. 2019-40 of 7 November 2019]

The National Assembly is directed by a President assisted by a Bureau. They are elected for the duration of the legislature within the conditions established by the Internal Regulations of the said Assembly.

When he is called [upon] to exercise the functions of President of the Republic within the conditions specified in Article 50 of this Constitution, the President of the National Assembly is replaced in his functions in accordance with the Internal Regulations of the Assembly.

Article 83

In case of vacancy of the Presidency of the National Assembly by death, resignation or any other cause, the Assembly elects a new President within the fifteen days which follow the vacancy, if it is in session; in the contrary case, it meets of plain right within the conditions established by its Internal Regulations.

In the case of necessity, the replacement of other members of the Bureau is provided for in accordance with the provisions of the Internal Regulations of the said Assembly.

Article 84

The President of the National Assembly must render account to the Assembly on his administration and on his activities and furnish any explanations to it which it might demand.

Any Deputy may address to the President of the Assembly written or oral questions on his activities and his administration.

The National Assembly may constitute a commission of inquiry charged to make a detailed [*circonstancié*] report to it.

By the terms of this report, the National Assembly can demand the resignation of its President by a majority of two-thirds of its members.

If this quorum is attained [*atteinte*], the President of the Assembly is automatically removed from his functions, while retaining his title of Deputy.

The National Assembly proceeds within a time period of fifteen days to the election of a new President.

Article 85

If at the opening of a session, the quorum of half plus one of the members composing the National Assembly is not reached, the sitting is postponed to the third day which follows. The deliberations are valid, whatever the quorum may be.

Article 86

The sittings of the Assembly are only valid if they occur in the ordinary place [*lieu*] of the sessions, except in cases of force majeure duly declared by the Constitutional Court.

The complete record of the debates of the National Assembly is published in the *Journal Officiel* [Official Gazette].

Article 87

The Assembly meets of plain right in two ordinary sessions each year.

The first session opens in the course of the first fifteen days of the month of April.

The second session opens in the course of the second fifteen days of the month of October.

Each of the sessions may not exceed three months.

Article 88

The National Assembly is convoked in extraordinary session by its President on a specific agenda, at the demand of the President of the Republic or of the absolute majority of the Deputies.

The duration of an extraordinary session may not exceed fifteen days. The National Assembly recesses [*sépare*] as soon as the agenda is completed.

Article 89

The work of the National Assembly takes place following [the] Internal Regulations which it adopts in accordance with the Constitution.

The Internal Regulations determine:

- The composition, [and] the rules of functioning of the Bureau as well as the powers and prerogatives of its President;
- The members, the mode of designation, the composition, the role and the competence of its permanent commissions as well as those [commissions] which are special and temporary;
- The creation of commissions of parliamentary inquiry within the framework of control of the governmental action;
- the organization of administrative services directed by the Administrative Secretary General, placed [*placé*] under the authority of the President of the National Assembly;
- the regime of discipline of the Deputies in the course of the sessions of the Assembly.
- The different modes of the ballot, with the exception of those expressly provided for by this Constitution.

Article 90

The members of the National Assembly enjoy parliamentary immunity. Consequently, no Deputy may be prosecuted, investigated, arrested, detained or tried concerning the opinions or votes emitted by him in the exercise of his functions.

No Deputy may, for the duration of the sessions, be prosecuted or arrested in a criminal or correctional matter without the authorization of the National Assembly, except in the cases of flagrante delicto.

No Deputy may, out of session[,] be arrested without the authorization of the Bureau of the National Assembly, except in the case of flagrante delicto, of authorized prosecution or of definitive condemnation.

The detention or the prosecution of a Deputy is suspended if the National Assembly requires it by a vote with a majority of two-thirds.

Article 91

The Deputies receive the parliamentary indemnities that are established by the law.

Article 92

Any Deputy appointed to a national public function, or named to a national or international mission, incompatible with the exercise of his parliamentary mandate, suspends it of office. His replacement ceases at his demand.

Article 93

The right to vote of the Deputies is personal. The Internal Regulations of the National Assembly may authorize[,] exceptionally[,] the delegation of the vote. In this case, no one may receive the delegation of more than one mandate.

**II – OF THE RELATIONS BETWEEN THE
NATIONAL ASSEMBLY AND THE GOVERNMENT**

Article 94

The National Assembly informs the President of the Republic of the agenda of its sittings and of those of its commissions.

Article 95

The members of the Government have access to the sittings of the National Assembly. They attend at the demand of a Deputy, of a commission, or on their own demand.

They may be given assistance by experts.

Article 96

The National Assembly votes the laws and consents to taxes.

Article 97

The law is voted by the National Assembly with a simple majority. However, the laws to which this Constitution confers the character of organic laws are voted and modified within the following conditions:

- The proposal or the Bill may only be submitted to the deliberation and to the vote of the National Assembly after the expiration of a time period of fifteen days after its deposit with the Bureau of the Assembly.
- The text may only be adopted with the majority of the members composing the Assembly.
- The organic laws may only be promulgated after [the] declaration by the Constitutional Court of their conformity with the Constitution.

Article 98

The rules concerning[the following] are of the domain of the law:

- Citizenship, civil rights and the fundamental guarantees accorded to citizens for the exercise of the public freedoms; the constraints imposed, in the interest of national defense and public security, on citizens [concerning] their persons and their assets;
- Nationality, the state and the capacity of persons, the matrimonial regimes, inheritance and gifts;
- The procedure according to which customs [*coutumes*] will be recognized [*constatées*] and placed in harmony with the fundamental principles of the Constitution;
- The determination of crimes and misdemeanors as well as the penalties which are applicable to them;
- Amnesty;

- The organization of jurisdictions of all orders and the procedure to be followed before these jurisdictions, the creation of new orders of jurisdiction, the status of the magistrature, of the ministerial offices and of the auxiliaries of justice;
- The establishment, the rate and the modalities of collection of taxes of any nature;
- The regime of issuing of money;
- The electoral regime of the President of the Republic, of the members of the National Assembly and of the Local Assemblies;
- The creation of categories of public establishments;
- The General Statute of the Public Function;
- The Statute of the Military Personnel, of the Forces of Public Security and Similar [Forces];
- The general organization of the administration;
- The territorial organization, the creation and the modification of administrative circumscriptions as well as the electoral divisions [*découpages*];
- The state of siege and the state of urgency;

The law determines fundamental principles:

- of the organization of the national defense;
- of the free administration of the territorial collectivities, of their competences, and of their resources;
- of education and of scientific research;
- of the regime of property, of real rights and of civil and commercial obligations;
- of the nationalization and denationalization of enterprises and of the transfers of property of the public sector to the private sector;
- of the right to work, of social security, of the syndical right and of the right to strike;
- of the alienation and of the management of the domain of the State;
- of insurance and of savings;
- of the organization of production;
- of the protection of the environment and of the conservation of natural resources;
- of the regime of transport and of telecommunications;
- of the penitentiary regime.

Article 99

[Amended by Law No. 2019-40 of 7 November 2019]

The laws of finance determine the receipts and the expenses of the State.

The regulatory laws control the execution of the laws of finance, under reserve of a subsequent audit of the accounts of the Nation by the Court of Accounts.

The program laws [*lois de programme*] establish the objectives of the economic and social action of the State.

Article 100

The matters other than those which are of the domain of the law have a regulatory character.

The texts of legislative form intervening these matters subsequent to the entry into force of this Constitution may be modified by decree taken after [the] opinion of the Constitutional Court.

Article 101

The declaration of war is authorized by the National Assembly.

When, following exceptional circumstances, the National Assembly cannot sit effectively [*utilement*], the decision of [a] declaration of war is taken in the Council of Ministers by the President of the Republic who immediately informs the Nation of it.

The state of siege and the state of urgency are decreed in the Council of Ministers, after [the] opinion of the National Assembly.

The extension of the state of siege or of the state of emergency beyond fifteen days may only be authorized by the National Assembly.

When the National Assembly cannot be called upon to decide, no state of siege or state of urgency may be decreed without its authorization, within the sixty days which follow the date of entry into force of a previous state of siege or [state] of urgency.

Article 102

The Government can, for the execution of its program, demand of the National Assembly to vote a law authorizing it to take by ordinance for a limited time the measures which are normally of the domain of the law. This authorization may only be granted with a majority of two-thirds of the members of the National Assembly.

The ordinances are taken in the Council of Ministers, after [the] opinion of the Constitutional Court. They enter into force on their publication, but become lapsed if the bill of the law of ratification is not deposited with the Assembly before the date established by the enabling law.

At the expiration of the time period specified in the first paragraph of this Article, the ordinances may only be modified by the law in their provisions which are of the legislative domain.

Article 103

The Deputies have the right of amendment.

Article 104

The proposals, Bills and amendments which are not of the domain of the law are not receivable.

The irreceivability is decided by the President of the National Assembly after deliberation of the Bureau.

If it appears that the proposal or amendment is contrary to a delegation accorded by virtue of Article 102 of this Constitution, the Government can oppose the irreceivability.

In the case of dispute, [based] on paragraphs 1 and 3 of this Article, the Constitutional Court, referred to [the matter] by the President of the National Assembly or [by] the Government, decides within a time period of eight days.

Article 105

The initiative of law belongs concurrently to the President of the Republic and to the members of the National Assembly.

The Bills of law are deliberated in the Council of Ministers, after the substantiated opinion of the Supreme Court referred to [the matter] in accordance with Article 132 of this Constitution and deposited with the Bureau of the National Assembly.

The Bills and proposals of law are sent[,] before deliberation in plenary session, to the competent commission of the National Assembly to examine [them].

The Bill of the budget of the National Assembly may not be considered in [a] commission or in plenary session without having been previously submitted to the Bureau of the said Assembly.

Article 106

The discussion of the Bills of law corresponds [*porte*] to the text presented by the commission. The latter, at the demand of the Government, must bring [*porter*] to the awareness of the National Assembly the points on which there is disagreement with the Government.

Article 107

The proposals and amendments deposited by the Deputies are not receivable when their adoption would have as a consequence either a diminution of public resources, or the creation or aggravation of a public expense, unless they are accompanied by a proposal of augmentation of receipts or of equivalent economies.

Article 108

The Deputies can, by a vote with a majority of three-quarters[,] decide to submit any question to referendum.

Article 109

The National Assembly votes the Bill of the Law of Finance within the conditions determined by the law. The National Assembly is referred to [the matter] of the Bill of Law of Finance at the latest within one week of the opening of the session of October. The Bill of the Law of Finance must provide for the receipts necessary to completely cover the expenses.

Article 110

The National Assembly votes [a] balanced budget. If the National Assembly has not decided by the date of 31 December, the provisions of the Bill of the Law of Finance can be brought into force by ordinance.

The Government refers [the matter], for ratification, to the National Assembly convened in extraordinary session within a time period of fifteen days.

If the National Assembly has not voted the budget at the end of this extraordinary session[,] the budget is established definitively by ordinance.

Article 111

If the Bill of the Law of Finance has not been promulgated before the beginning of the fiscal year, the President of the Republic demands[,] of urgency[,] of the National Assembly[,] the authorization to execute the receipts and expenses of the State by provisional twelfths.

Article 112

[Amended by Law No. 2019-40 of 7 November 2019]

The National Assembly regulates the accounts of the Nation following the modalities specified by the organic law relative to the laws of finance.

It is, to this effect, assisted by the Court of Accounts which is responsible for all inquiries and studies related to the execution of the public receipts and expenses,

or to the management of the national treasury, to the territorial collectivities, to the relevant administrations or institutions relevant to the State or submitted to its control.

Article 113

The Government is required to furnish to the National Assembly any explanations which will be demanded of it concerning its administration and its activities.

The means of information and of control of the National Assembly on the Governmental action are:

- the interpellation in accordance with Article 71;
- the written question;
- the oral question with or without debate, not followed by vote;
- the parliamentary committee of inquiry.

These means are exercised within the conditions determined by the Internal Regulations of the National Assembly.

TITLE V OF THE CONSTITUTIONAL COURT

Article 114

The Constitutional Court is the highest jurisdiction of the State in constitutional matters. It is the judge of the constitutionality of the law and it guarantees the fundamental rights of the human person and the public freedoms. It is the regulatory organ of the functioning of the institutions and of the activity of the public powers.

Article 115

The Constitutional Court is composed of seven members of which four are appointed by the Bureau of the National Assembly and three by the President of the Republic for a mandate of five years, renewable one sole time. No member of the Constitutional Court can sit more than ten years.

To be a member of the Constitutional Court, beyond the condition of professional competence, one must be of good morals and of grand probity.

The Constitutional Court includes:

- three magistrates having fifteen years experience at least[,] of which two are appointed by the Bureau of the National Assembly and one by the President of the Republic;
- two jurists of high level, professors or practitioners of law, having fifteen years of experience at least[,] one appointed by the Bureau of the National Assembly and the other by the President of the Republic;
- two [esteemed] persons [*personnalités*] of great professional reputation[,] one appointed by the Bureau of the National Assembly and the other by the President of the Republic.

The members of the Constitutional Court are irremovable for the duration of their mandate. They may not be prosecuted or arrested without the authorization of the Constitutional Court and of the Bureau of the Supreme Court sitting in joint session, except in the case of the flagrante delicto. In this case, the President of the Constitutional Court and the President of the Supreme Court must be referred to [the matter] immediately and at the latest within forty-eight hours.

The functions of members of the Constitutional Court are incompatible with the quality of member of the Government, the exercise of any elective mandate, of any public, civil or military employment, of all other professional activity as well as any function of national representation, except in the case provided for in Article 50 paragraph 3.

An organic law determines the organization and the functioning of the Constitutional Court, the procedure to be followed before it, notably the time periods for referring [matters] to it as well as the immunities and the disciplinary regime of its members.

Article 116

The President of the Constitutional Court is elected by his peers for a time period of five years from among the magistrate and jurist members of the Court.

Article 117

[Amended by Law No. 2019-40 of 7 November 2019]

The Constitutional Court[,]

– decides obligatorily on:

- the constitutionality of the organic laws before their promulgation;
- the Internal Regulations of the National Assembly, of the High Authority for Broadcasting and of Communication and of the Economic and Social Council prior to their implementation, as well their conformity with the Constitution;
- the constitutionality of the laws and of the regulatory acts supposedly infringing the fundamental rights of the human person and the public freedoms and in general, on the violation of the rights of the human person;
- the conflict of attributions between the institutions of the State.
- the disputes of the election of the *duo* President of the Republic and Vice President of the Republic and of the members of the National Assembly;

– sees to the regularity of the election of the *duo* President of the Republic and Vice President of the Republic; examines the complaints, decides on the irregularities that it has found, by itself, [as] arising and proclaims the results of the ballot; decides on the regularity of the referendum and proclaim the results of it;

– decides, in the case of dispute on the regularity of the legislative elections;

– forms [*fait*], of right, [its] part of the High Court of Justice with the exception of its President.

Article 118

It is equally competent to decide on the cases provided for in Articles 50, 52, 57, 77, 86, 100, 102, 104 and 146.

Article 119

[Amended by Law No. 2019-40 of 7 November 2019]

The President of the Constitutional Court is competent to:

– receive the oath of the President of the Republic;

– give his opinion to the President of the Republic in the cases provided for in Articles 58 and 68;

Article 120

The Constitutional Court must decide within the time period of fifteen days after it has been referred to [a matter] of a text of a law or of a complaint of violation of the rights of the human person and of the public freedoms. However, at the demand of the Government, if there is urgency, this time period is reduced to eight days. In this case, the referral of [the matter] to the Constitutional Court suspends the time period of promulgation of the law.

Article 121

The Constitutional Court, at the demand of the President of the Republic or any member of the National Assembly, decides on the constitutionality of the laws before their promulgation.

It decides[,] of office[,] on the constitutionality of the laws and any regulatory texts which would infringe the fundamental rights of the human person and the public freedoms. It decides more generally on the violations of the rights of the human person and its decision must intervene within a time period of eight days.

Article 122

Any citizen can refer [a matter] to the Constitutional Court on the constitutionality of laws, either directly, or by the procedure of the plea [*exception*] of unconstitutionality invoked in a matter which concerns that citizen before a jurisdiction. That [jurisdiction] must defer until the decision the Constitutional Court which must intervene within a time period of thirty days.

Article 123

The organic laws before their promulgation, the Internal Regulations of the National Assembly, of the High Authority for Broadcasting and of Communication and of the Economic and Social Council prior to their implementation, must be submitted to the Constitutional Court which decides on their conformity with the Constitution.

Article 124

A provision declared unconstitutional may not be promulgated or implemented.

The decisions of the Constitutional Court are not susceptible to any recourse.

They impose themselves on the public powers and on all civil, military and jurisdictional authorities.

PART VI OF THE JUDICIAL POWER

Article 125

The Judicial Power is independent of the Legislature Power and of the Executive Power.

It is exercised by the Supreme Court [and] the Courts and Tribunals created in accordance with this Constitution.

Article 126

Justice is rendered in the name of the Beninese People.

The judges, in the exercise of their functions, are only submitted to the authority of the law. The presiding magistrates are irremovable.

Article 127

The President of the Republic is the guarantor of the independence of justice.

He is assisted by the Superior Council of the Magistrature.

Article 128

The Superior Council of the Magistrature decides as a Council of Discipline of the magistrates.

The composition, the attributions, the organization and the functioning of the Superior Council of the Magistrature are established by an organic law.

Article 129

The magistrates are appointed by the President of the Republic, on the proposal of the Guardian of the Scales, the Minister of Justice, after [the] opinion of the Superior Council of the Magistrature.

Article 130

The Superior Council of the Magistrature reviews [*étudie*] the dossiers [concerning] pardon and transmits them with its substantiated opinion to the President of the Republic.

I: OF THE SUPREME COURT

Article 131

[Amended by Law No. 2019-40 of 7 November 2019]

The Supreme Court is the highest jurisdiction of the State in administrative and judicial matters.

The decisions of the Supreme Court are not susceptible to any recourse. They impose themselves on the Executive Power, the Legislative Power, as well as all the jurisdictions.

Article 132

[Amended by Law No. 2019-40 of 7 November 2019]

The Supreme Court may be consulted by the Government on all administrative and jurisdictional matters.

Article 133

The President of the Supreme Court is appointed for a duration of five years by the President of the Republic, after [the] opinion of the President of the National Assembly, from among the magistrates and jurists of high level, having at least fifteen years of professional experience[,] by decree taken in the Council of Ministers.

He is irremovable for the duration of his mandate, which is only renewable one sole time.

The functions of the President of the Supreme Court are incompatible with the quality of member of the Government, the exercise of any elective mandate, of any public, civil or military employment, of any other professional activity, as well as any function of national representation.

Article 134

The Presidents of the Chambers and the Councilors are appointed from among the magistrates and jurists of high level, having at least fifteen years professional experience, by decree taken in the Council of Ministers, by the President of the Republic, on the proposal of the President of the Supreme Court and after [the] opinion of the Superior Council of the Magistrature.

The law determines the Statute of the Magistrates of the Supreme Court.

I-1: OF THE COURT OF ACCOUNTS

[Inserted by Law No. 2019-40 of 7 November 2019]

Article 134-1

[Inserted by Law No. 2019-40 of 7 November 2019]

The President of the Republic is the guarantor of the independence of the Court of Accounts and of the Regional Courts of Accounts. He is assisted by the Superior Council of Accounts.

Article 134-2

[Inserted by Law No. 2019-40 of 7 November 2019]

The Superior Council of Accounts decides as [a] Council of Discipline of the members of the Court of Accounts and of the Regional Courts of Accounts.

The composition, the attributions, the organization and the functioning of the Superior Council of Accounts are established by an organic law.

Article 134-3

[Inserted by Law No. 2019-40 of 7 November 2019]

The Court of Accounts is the highest jurisdiction of the State in matters of control of the public accounts. It verifies the accounts and controls the administration of the public enterprises and organs [*organismes*] with a financial participation or benefiting from public funds. It is the superior institution of control of the public finances.

The Court of Accounts sees to the good employment of public funds.

The decisions of the Court of Accounts are not susceptible to any recourse.

They impose themselves on the executive power, on the legislative power as well as on all the jurisdictions.

The competence, the composition, the organization and the functioning of the Court of Accounts are determined by an organic law.

The law establishes the procedures followed before the Court of Accounts.

Article 134-4

[Inserted by Law No. 2019-40 of 7 November 2019]

The President of the Court of Accounts is appointed for a duration of five (05) years by the President of the Republic, after the opinion of the President of the National Assembly, from among the magistrates, the jurists of high level, the inspectors of finance, the administrators of the treasury or of taxes, the administrators of financial services, the administrative economists or the accounting experts having at least fifteen (15) years of professional experience[,] by decree taken in the Council of Ministers.

He is irremovable during the duration of his mandate[,] renewable one sole time.

The functions of President of the Court of Accounts are incompatibles with the quality of member of the Government, the exercise of any elective mandate, of any public, civil or military employment, of any other professional activity as well as of any function of national representation.

Article 134-5

[Inserted by Law No. 2019-40 of 7 November 2019]

The presidents of [its] chambers, [and] the councilors of the Court of Accounts are appointed in the Council of Ministers by the President of the Republic, from

among the magistrates, the jurists of high level, the inspectors of finance, the administrators of the treasury or of the taxes, the administrative economists or the accounting experts having accomplished fifteen (15) years of professional practice, by decree taken in the Council of Ministers, on proposal of the President of the Court of Accounts and after the opinion of the Superior Council of Accounts.

The law determines the status of the members of the Court of Accounts.

Article 134-6

[Inserted by Law No. 2019-40 of 7 November 2019]

The Regional Courts of Accounts control the finances of the territorial collectivities.

The composition, the competence, the organization and the functioning of the Regional Courts of Accounts as well as the rules of procedure applicable before these jurisdictions are established by the law.

II: OF THE HIGH COURT OF JUSTICE

Article 135

The High Court of Justice is composed of members of the Constitutional Court, with the exception of its President, of six Deputies elected by the National Assembly and of the President of the Supreme Court.

The High Court elects its President from among its [members].

An organic law establishes the rules of its functioning, as well as the procedure to be followed before it.

Article 136

The High Court of Justice is competent to judge the President of the Republic and the members of the Government in respect of acts qualified as high treason, of infractions committed in the exercise of or in connection with the exercise of their functions, as well as to judge their accomplices in the case of conspiracy against the security of the State.

The jurisdictions of common law remain competent for the infractions perpetrated outside the exercise of their functions and of which they are criminally responsible.

Article 137

The High Court of Justice is bound by the definition of infractions and the determination of the sanctions resulting from the penal laws in force at the time [*époque*] of the acts.

The decision of prosecution following the indictment of the President of the Republic and of the members of the Government is voted with a majority of two-thirds of the Deputies composing the National Assembly following the procedure provided for in the Internal Regulations of the National Assembly. The investigation is led by the magistrates of the Chamber of Accusation [*Chambre d'Accusation*] of the Court of Appeal, having jurisdiction in the seat of the National Assembly.

Article 138

The President of the Republic and the members of the Government are suspended from their functions in [the] case of indictment for high treason, contempt of the National Assembly and any damage [*atteinte*] to honor and to probity. In case of conviction, they are discharged from their responsibilities.

TITLE VII
OF THE ECONOMIC AND SOCIAL COUNCIL

Article 139

The Economic and Social Council gives its opinion on the Bills of law, of ordinance or of decree, as well as on the proposals of law that are submitted to it.

The Bills of program laws of economic or social character are obligatorily submitted to it for [its] opinion.

The President of the Republic may consult the Economic and Social Council on any problem of economic, social, cultural, scientific and technical character.

The Economic and Social Council can, on its own initiative, in the form of a recommendation, bring to the attention of the National Assembly and of the Government the reforms of economic and social order which appear to it to conform to or are contrary to the general interest.

At the demand of the Government, the Economic and Social Council designates one of its members to report to the commissions of the National Assembly the opinion of the Council on the Bills or proposals of law that have been submitted to it.

Article 140

The Economic and Social Council elects from among its [members] its President and the members of its Bureau.

The composition, the organization and the functioning of the Economic and Social Council are established by an organic law.

Article 141

The members of the Economic and Social Council receive indemnities for the sessions and for travel [*déplacement*].

The amount of these indemnities is established by decree taken in the Council of Ministers.

Title VIII
OF THE HIGH AUTHORITY OF BROADCASTING
AND OF COMMUNICATION

Article 142

The High Authority of Broadcasting and of Communication has for its mission to guarantee and to assure the freedom and protection of the press, as well as all means of mass communication within respect for the law.

It sees to respect for ethics in the matters of information and to the equal access by the political parties, associations and citizens to the official means of information and of communication.

Article 143

[Amended by Law No. 2019-40 of 7 November 2019]

The President of the High Authority for Broadcasting and of Communication is appointed, after consultation with President of the National Assembly, by decree taken in the Council of Ministers.

The composition, the attributions, the organization and the functioning of the High Authority for Broadcasting and Communication are established by an organic law.

The members of the High Authority for Broadcasting and of Communication are designated for a mandate of five (05) years renewable one time.

Title IX

OF TREATIES AND INTERNATIONAL AGREEMENTS

Article 144

The President of the Republic negotiates and ratifies the treaties and international agreements.

Article 145

[Amended by Law No. 2019-40 of 7 November 2019]

The peace treaties, the international treaties or agreements, those which modify the interests of the State, those which involve cession, exchange or addition of territory, may only be ratified by virtue of a law.

However, the financing agreements [*conventions*] submitted to ratification, are ratified by the President of the Republic who renders account of them to the National Assembly within a time period of ninety (90) days.

There is neither cession, nor exchange of territory before consultation of the People by way of referendum.

Article 146

If the Constitutional Court[,] referred to [the matter] by the President of the Republic or by the President of the National Assembly[,] has declared that an international commitment involves a clause contrary to the Constitution, the authorization to ratify it may only intervene after the revision of the Constitution.

Article 147

The treaties or agreements regularly ratified have, on their publication, an authority superior to that of the laws, under reserve for each agreement or treaty, of its application by the other party.

Article 148

The Republic of Benin may conclude with other States agreements of cooperation or of association based on the principles of equality, of mutual respect for sovereignty, of reciprocal advantages and of national dignity.

Article 149

The Republic of Benin, in order to realize African Unity may conclude any sub-regional or regional agreements of integration in accordance with Article 145.

TITLE X

OF THE TERRITORIAL COLLECTIVITIES

Article 150

The territorial collectivities of the Republic are created by the law.

Article 151

[Amended by Law No. 2019-40 of 7 November 2019]

The collectivities administer themselves freely by councils elected for a mandate of five (05) years within the conditions provided for by the law.

Article 151-1

[Inserted by Law No. 2019-40 of 7 November 2019]

The State recognizes traditional leadership [*chefferie*], guardian of habits [*us*] and customs[,] within the conditions established by the law.

Article 152

No expenditure of the sovereignty of the State may be imputed to their budget.

Article 153

The State sees to the harmonious development of all territorial collectivities on the basis of national solidarity, of regional potentials and of inter-regional equality [*équilibre*].

TITLE X-1

OF THE GENERAL ELECTIONS

[Inserted by Law No. 2019-40 of 7 November 2019]

Article 153-1

[Inserted by Law No. 2019-40 of 7 November 2019]

The legislative and communal elections are organized simultaneously within a same electoral year[,] as [*a titre*] general elections, [and] then the election of the President of the Republic.

Only the lists having obtained a minimum of [the] suffrage expressed at the national level [*plan*] for each of the elections, are admitted for the attribution of seats.

This limit [*seuil*] is established by the law.

Article 153-2

[Inserted by Law No. 2019-40 of 7 November 2019]

The coupled elections, legislative and communal, are organized the second Sunday of the month of January of the electoral year.

The Deputies elected to the National Assembly enter into [their] function and are installed the second Sunday of the month of February of the electoral year.

The communal councilors elected enter into [their] function and are installed the first and the third Sunday of the month of February of the electoral year.

Article 153-3

[Inserted by Law No. 2019-40 of 7 November 2019]

The election of the President of the Republic is organized the second Sunday of the month of April of the electoral year.

A second round of the ballot is organized, the case arising, the second Sunday of the month of May.

In no case, may the election of the President of the Republic be organized simultaneously with the legislative and communal elections.

In all cases, the elected President of the Republic enters into [his] function and takes the oath the fourth Sunday of the month of May.

**TITLE XI
OF REVISION**

Article 154

The initiative of revision of the Constitution belongs concurrently to the President of the Republic, after [a] decision taken in the Council of Ministers[,] and to the members of the National Assembly.

To be taken into consideration, the Bill or the proposal of revision must be voted with a majority of three-fourths of the members composing the National Assembly.

Article 155

The revision is only acquired after having been approved by referendum, unless if the Bill or the proposal in question has been approved with a majority of four-fifths of the members composing the National Assembly.

Article 156

No procedure of revision may be initiated or prosecuted when it infringes the integrity of the territory.

The republican form and the secularity of the State cannot be made the object of a revision.

Title XII

FINAL AND TRANSITORY PROVISIONS

Article 157

This constitution must be promulgated within eight days after its adoption by referendum.

The President of the Republic must enter its [his] functions, [and] the National Assembly must meet at the latest [by] 1 April 1991.

The High Council of the Republic and the Government of Transition will continue to exercise their functions until the installation of the new institutions.

The oath of the President of the Republic will be received by President of the High Council of the Republic in Plenary Assembly.

The National Assembly will be installed by the President of the High Council of the Republic in the presence of the members of the said Council.

Article 157-1

[Inserted by Law No. 2019-40 of 7 November 2019]

With a view to the organization of the general elections of 2026, the mandate of the communal councilors elected in 2020, has as [its] end, the date of the entrance into [their] function of the communal councilors elected in 2026 at 00 hours.

Article 157-2

[Inserted by Law No. 2019-40 of 7 November 2019]

With a view to the organization of the general elections of 2026, the mandate of the Deputies elected in 2023 has as [its] end, the date of the entrance into [their] function of the Deputies elected in 2026 at 00 hours.

Article 157-3

[Inserted by Law No. 2019-40 of 7 November 2019]

The new provisions concerning the election and the mandate of the President of the Republic enter into force at the occasion of the election of the President of the Republic in 2021.

The mandate of the President of the Republic in exercise ends at the date of the taking of the oath by the President of the Republic elected in 2021, at 00 hours.

In the case that the President of the Republic in exercise dies, resigns or is definitely incapacitated after the promulgation of this constitutional law [Law No. 2019-14], the President of the National Assembly exercises the functions of President of the Republic for the remainder of the mandate in course. The National Assembly elects a new President.

The new provisions governing the election and the mandate of the Deputies enter into force at the occasion of the legislative elections of 2023.

Article 158

The legislation in force in Benin[,] until the installation [*mise en place*] of the new institutions[,] remains applicable, except on intervention of new texts, [and] in so far as there is nothing contrary to this Constitution.

Article 159

This Constitution will be submitted to referendum.

The provisions necessary for its implementation will be made the object, either of laws voted by the High Council of the Republic, or of decrees taken in the Council of Ministers.

The attributions devolved by this Constitution to the Constitutional Court will be exercised by the High Council of the Republic until the installation of the new institutions.

Article 160

This law will be executed as the Constitution of the Republic of Benin.

Done at Cotonou, 11 December 1990

By the President of the Republic

Head of State

Mathieu KEREKOU

The Prime Minister

Head of Government

Nicéphore SOGLO

The Minister of Justice and of Legislation

Yves YEHOUESSI

[Annexed to the Constitution of the Republic of Benin[,] Adopted at the Referendum of 2 December 1990 [is the] African Charter of the Rights of Man and of Peoples[,] Adopted by the Eighteenth Conference of the Heads of State and of Government of the Organization of African Unity [on] 18 June 1981 at Nairobi, Kenya and ratified by Benin [on] 20 January 1986 [Text omitted]]