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Citations:

Bluebook 20th ed.
English translation of the French original text of the Constitution of 2001 1 (2001)
Title Page

ALWD 6th ed.

Chicago 7th ed.
, ", " Constitution of the Union of the Comoros (2001): 1-2

OSCOLA 4th ed.
, " (2001) 1

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World Constitutions Illustrated

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The Comoros

Constitution of the Union of the Comoros
23 December 2001

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William S. Hein & Co., Inc.
Buffalo, New York
2011

This translation is based on the official French text published
in the *Journal Officiel*, Special Number, December 2001
kindly provided by the Law Library of Congress.

The following transcriptions of the original text of 2001 were consulted:

- that provided by the official site of the Presidency: <http://www.beit-salam.km>
- that produced by Jean du Bois de Gaudusson in *Revue électronique Afrilex No. 03/2003*: <http://afrilex.u-bordeaux4.fr/sites/afrilex/IMG/pdf/3doc7gaudusson.pdf>
- and that provided by L'Organisation Internationale de la Francophonie: <http://democratie.francophonie.org/IMG/pdf/Comores.pdf>.

Cite as: Jefri J. Ruchti, trans., Constitution of the Union
of the Comoros, 23 December 2001 (HeinOnline
World Constitutions Illustrated library 2011)

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The Constitution of the Union

23 December 2001

PREAMBLE

The Comorian people solemnly affirm their will to:

- draw from Islam, the permanent inspiration of the principles and rules which govern the Union,
- guarantee the pursuit of a common destiny between Comorians,
- give [themselves] new institutions founded on the State of law, democracy, respectful of good governance and guaranteeing a division of power between the Union and the Islands which compose it, in order to permit them to achieve [*concrétiser*] their legitimate aspirations, to administer, [and] to manage freely and without hindrance, their own affairs and to promote their socio-economic development,
- emphasize [*marquer*] their commitment to the principles of the fundamental rights such as they are defined by the Charter of the United Nations, that of the Organization of African Unity, the Pact of the League of the Arab States, the Universal Declaration of the Rights of Man of the United Nations and the African Charter on the Rights of Man and of Peoples, as well as the international conventions[,] notably those concerning the rights of the child and of the woman.

Proclaim:

- the solidarity between the Union and the Islands and between the Islands themselves;
- the equality of the Islands in rights and in duties;
- the equality of all in rights and in duties without distinction of sex, of origin, of race, of religion or of belief;
- the equality of all before justice and the right of all justiciable [persons] to [a] defense;
- the freedom and the security of each individual under the sole condition that he does not accomplish any act of [a] nature harmful to others;
- the right to multi-source [*plurielle*] information and to the freedom of the press;
- the freedoms of expression, of assembly, of association and the syndical freedom, within respect for morals and of the public order;
- the freedom of enterprise, as well as the security of capital and of investments;
- the inviolability of the domicile within the conditions prescribed by the law;
- the guarantee of property[,] save [for] public utility or necessity substantiated in accordance with the law and under condition of a just indemnity;
- the right to health and to education for all;
- the right of the child and of youth to be protected by the public powers against any form of abandonment, exploitation and violence;

– the right to an healthy environment and the duty of all to safeguard that environment.

This Preamble is made [an] integral part of the Constitution.

TITLE ONE OF THE UNION OF THE COMOROS

Article 1

The Union of the Comoros is a Republic, composed of the autonomous Islands of Mwali (Mohéli), Maoré (Mayotte), Ndzuwani (Anjouan), N'gazidja (Grande Comore).

The national emblem is yellow, white, red, blue, a white crescent turned towards the right and four white stars aligned from one end to the other of the crescent within an isosceles triangle on a green field.

The national hymn is: *Umodja Wa Massiwa*.

The motto of the Union is: “*Unité – Solidarité – Développement*” [Unity-Solidarity-Development].

The law of the Union determines the seal of the Union.

The official languages are Shikomor, [the] national language, [and] French and Arabic.

Article 2

An organic law determines the islands where the institutions of the Union sit.

Article 3

Sovereignty belongs to the people who exercise it, in each island and in the ensemble of the Union, by its elected representatives or by way [*voie*] of referendum. No group or any individual may arrogate its exercise.

Article 4

Within the conditions determined by the law, suffrage is universal, equal and secret. It may be direct or indirect.

All the Comorians of the two sexes enjoying their civil and political rights[,] are electors, within the conditions determined by the law.

Article 5

The Comorian nationality is acquired, is conserved and is lost in accordance with the law. No Comorian by birth may be deprived of their nationality.

Article 6

The political parties and groups concur in the exercise of suffrage, as well as in the civic and political education [*formation*] of the people. They form and exercise their activities freely, in accordance with the law of the Union. They must respect the national unity, sovereignty and the inviolability [*intangibilité*] of the frontiers of the Comoros, such as they are internationally recognized, as well as the principles of democracy.

TITLE II
OF THE RESPECTIVE COMPETENCES OF
THE UNION AND OF THE ISLANDS

Article 7

Within respect for the unity of the Union and the inviolability of its frontiers such as they are as internationally recognized, each island administers and manages its own affairs freely.

Each island freely establishes its fundamental law [*loi fondamentale*] within respect for the Constitution of the Union.

The Comorians have the same rights, the same freedoms and the same obligations within any part of the Union. No authority may adopt measures which[,] directly or indirectly, would restrict the freedom of circulation and of establishment of persons, as well as the free circulation of goods [*biens*] on all the territory of the Union.

The Islands include [*comprennent*] and elected Executive and an assembly as well as territorial collectivities endowed with an elected deliberative organ and an executive organ.

Article 8

The law of the Union takes precedence over [*prime*] the law of the Islands; it is executory on the whole of the territory of the Comoros.

Article 9

The following matters belong [*relève*] to the exclusive competence of the Union: Religion, Nationality, Money, Foreign Relations, External Defense, [and] National Symbols.

An organic law determines insofar as needed the conditions of application of the modalities, to implement the exclusive competences.

In the matters of the shared [*partagées*] competence of the Union and of the Islands, the Islands have the power to act as long as and as much as the Union has not made use of its right to act.

The Union can only intervene if it can do so more effectively [*efficacement*] than the Islands because: a) the regulation of a question by one island could affect the interests of the other islands; b) a question cannot be regulated by one island in isolation; [and] c) the safeguarding of the juridical, economic and social unity requires it. In this case, the Islands exercise [*dispose*], according to the matter, the power to take the measures necessary for the execution of the fundamental principles and of the regulations defined by the Union or for the realization of the objectives ordered [*arrêtés*] by the Union.

An organic law determines, insofar as needed, the matters [that] belong to the shared competence of the Union and the Islands and the modalities of their exercise.

To the exclusive competence of the Islands belong: the matters not belonging to the exclusive competence of the Union or of the shared competence of the Islands and of the Union.

Article 10

The peace treaties, the commercial treaties, the treaties or agreements concerning international organization, those which engage the finances of the Union, those which modify the provisions of legislative nature, those concerning

the state of persons, [and] those involving cession, exchange or addition of territory, may only be ratified or approved by virtue of a law. They only take effect after having been ratified or approved.

If the Constitutional Court, referred to [the matter] by the President of the Union, by the President of the Assembly of the Union or by the Heads of the Island Executives, has declared that an international engagement contains a clause contrary to the Constitution, the authorization to ratify it or to approve it may only intervene after the revision of the Constitution.

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

Article 11

The Islands enjoy financial autonomy. They enact [*élaborent*] and manage [*gèrent*] their budgets freely according to the principles applicable in matters of management of the public finances.

An organic law establishes the quantum [*quote-part*] of public receipts belonging respectively to the Union and to the Islands. This allocation is effected within the framework of the annual Law of Finance of the Union.

Within the conditions specified by the organic law, the Islands may create to the profit of their budgets the levies and taxes not specified by the law of the Union.

TITLE III

OF THE INSTITUTIONS OF THE UNION

1

Of the Executive Power

Article 12

The President of the Union is the symbol of the National Unity. He is the guarantor of the inviolability of the frontiers such as they are internationally recognized and of the sovereignty of the Union. He is the arbiter and the moderator of the regular functioning of its institutions. He assures the highest representation of the Union in international relations. He is the guarantor of respect for the international treaties and agreements.

The President of the Union determines and conducts foreign policy. He appoints and accredits the ambassadors and the extraordinary envoys to foreign powers; the foreign ambassadors and extraordinary envoys are accredited to him. He negotiates and ratifies the treaties.

The President of the Union is the Head of Government.

In this title [*titre*], he determines and conducts the policy of the Union. He conducts [*dispose*] the administration of the Union; he exercises the regulatory power. He appoints to the civil and military offices [*emplois*] of the Union.

The President of the Union is the Head of the Armies. He is responsible for the external defense.

The President of the Union has the right of pardon.

Article 13

The presidency is rotated between the Islands. The President and the Vice Presidents are elected together by universal[,] direct[,] majority suffrage in one

round for a mandate of four (4) years, renewable within respect for the rotation between the Islands. A primary election is organized in that Island to which the Presidency falls due and only the three candidates having obtained the greatest number of [the] suffrage expressed can be presented in the presidential election.

Before entering into [his] functions the President of the Union and the Vice Presidents take [an] oath before the Constitutional Court according to the following formulation and in Comorian:

“I swear before Allah, the Merciful and the most Compassionate to loyally and honestly fulfill the duties of my charge, to only act in the general interest and within respect for the Constitution.”

The conditions of eligibility and the modalities of application of this Article are established by an organic law.

Article 14

In the case of vacancies of the Presidency of the Union for whatever cause that may be or of definitive incapacity [*empêchement*] declared by the Constitutional Court referred to [the matter] by the Government, it proceeds to the election of the new President of the Union within a maximum time of sixty (60) days counting from the determination [*constatation*] of the vacancy or definitive incapacity. In case of vacancy or of definitive incapacity of a Vice President, it proceeds to his replacement by the Council of his Island of origin on proposal of the President of the Union.

In case of temporary absence or incapacity, the President of the Union is substituted by one of his Vice Presidents.

Article 15

The functions of President of the Union and of Vice President are incompatible with the exercise of any other elective mandate, of any other political function, of any public office [*emplois*], of any public or private professional activity or of any function in a directive organ of a political party or group. However, the Vice Presidents of the Union are responsible for [*chargés*] a ministerial department.

An organic law determines the matters for which the countersignature of the Vice Presidents is required.

Article 16

The President of the Union, assisted by two Vice-Presidents[,] appoints the Ministers of the Union and terminates their functions. The Government of the Union is composed in a manner to assure the just and equitable representation of the Islands.

The functions of Minister are incompatible with the exercise of any national elective mandate except those concerning the territorial collectivities, of any function of professional representation, and of any public office or of any professional activity.

Article 17

The President of the Union must promulgate the laws of the Union within the fifteen days which follow the transmission to the Government of the law definitively adopted. He can, before the expiration of this time, demand of the Assembly of the Union, which decides with [an] absolute majority, a new deliberation of the law or of certain of its articles. This new deliberation cannot be refused.

Article 18

The President of the Union prepares [*établit*] an annual report on the state of the Union for the attention [*intention*] of the Assembly of the Union, of the Constitutional Court as well as the of the Councils and of the Executives of the Islands.

2

Of the Legislative Power

Article 19

The Assembly of the Union is the legislative organ of the Union. It votes the laws and adopts the budget.

The Assembly of the Union is composed of thirty-three Deputies elected for a mandate of five (5) years.

Article 20

The Assembly of the Union is composed of representatives designated by the Assemblies of the Islands, on the basis of five Deputies per Island and eighteen representatives elected by universal direct suffrage within the framework of a uninomial majority ballot in two rounds.

An electoral law specifies [*précise*] the modalities of the ballot as well as the electoral circumscriptions of which the number may not be inferior to two per Island.

The President of the Assembly of the Union is elected for the duration of the legislature. An organic law determines the conditions and the modalities of the election of the Deputies of the Assembly of the Union and of its President, the regime of ineligibilities and incompatibilities, as well as the indemnities of the Deputies.

It specifies [*précise*] the conditions under which the persons named to assure, in case of vacancy of the seat, the replacement of the Deputies until the general or partial renewal of the Assembly of the Union.

The Assembly of the Union adopts, with the majority of two-thirds of its members, its internal regulations. Before the entry into application of these, the Constitutional Court decides on their conformity with the Constitution.

Article 21

No Member of the Assembly of the Union may be prosecuted, investigated, arrested, detained or tried on the basis [*occasion*] of the opinions or votes emitted by him in the exercise of his functions. No member of the Assembly of the Union may, during the time of the sessions, be prosecuted or arrested in [a] criminal or correctional matter without the authorization of the Assembly, except in the case of [a] flagrante offense. No Member of the Assembly of the Union may, out of session, be arrested without the authorization of the Bureau of the Assembly, except in case of [a] flagrante offense, of authorized prosecutions or of definitive condemnation.

Article 22

Any imperative mandate is null. The right to vote of the Members of the Assembly of the Union is personal. The law of the Union may exceptionally authorize the delegation of the vote to another Deputy. In this case, no one may receive [the] delegation of more than one mandate.

Article 23

The Assembly of the Union meets of plain right in two ordinary sessions per year, of which the total duration may not exceed six months. The calendar of the sessions is established according to the modalities determined by the internal regulations of the Assembly of the Union.

The Assembly of the Union meets in extraordinary session, at the demand of the President of the Union or of the absolute majority of the Deputies on a specific [*déterminé*] agenda. The extraordinary session may not exceed fifteen days counting from its meeting.

Article 24

The sittings of the Assembly of the Union are in principle public, except [for] the cases specified in the internal regulations of the Assembly.

Article 25

The initiative of law belongs concurrently to President of the Union and to the Deputies. The Bills of law are debated in the Council of Ministers and deposited with the Bureau of the Assembly of the Union.

The Deputies and the Government have the right of amendment.

The proposals of law and amendments of members of the Assembly of the Union are not receivable when their adoption has as a consequence, either a diminution of the public resources of the Union, or the creation or aggravation of any public expense [*charge*] of the Union.

The Bills and proposals of law are, at the demand of the Government or of the Assembly of the Union, sent [*envoyés*] for examination to commissions created by the internal regulations of the Assembly of the Union or specially established to this effect.

Article 26

The laws to which the Constitution confers the character of organic laws are voted and modified within the following conditions. A Bill or proposal of law is only submitted to the deliberation and to the vote of the Assembly of the Union at the expiration of a time of fifteen days after its deposit. The organic laws are adopted with the majority of two-thirds of the members composing the Assembly of the Union. At the demand of the totality the Deputies of one Island, the law is made the object of a second reading. The laws are promulgated after the declaration of the Constitutional Court of their conformity to the Constitution.

Article 27

The Assembly of the Union votes the Bill of the Law of Finance with a majority of two-thirds. If the Assembly of the Union does not decide within a time of sixty days, the provisions of the Bill may be brought into force by ordinance.

3

Of the Judicial Power

Article 28

The judicial power is independent of the legislative power and of the executive power. The judges are only submitted, in the exercise of their functions[,] to the authority of the law. The presiding magistrates [*magistrats du siège*] are not removable. The President of the Union is the guarantor of the independence of justice. He is assisted by the Superior Council of the Magistrature.

An organic law concerns [*porte*] the organization of justice of the Union and of the Islands.

Article 29

The Supreme Court is the highest jurisdiction of the Union in judicial matters, administrative [matters] and [those] of the accounts of the Union and of the Islands. The decisions of the Supreme Court are not susceptible to any recourse and impose themselves on the executive power, on the legislative power as well as [on] all the jurisdictions of the territory of the Union.

An organic law determines the composition as well as the rules of functioning of the Supreme Court.

Article 30

In [the] case of high treason the President, the Vice Presidents and the members of the Government of the Union are brought before the Supreme Court sitting [as] a High Court of Justice.

An organic law establishes the composition of the High Court, the rules of its functioning as well as the procedures applicable before it.

TITLE IV OF THE CONSTITUTIONAL COURT

Article 31

The Constitutional Court is the judge of the constitutionality of the laws of the Union and of the Islands. It sees to the regularity of the electoral operations both in the Islands and at the level of the Union, including in matters of referendum; it is the judge of electoral disputes. Finally[,] it guarantees the fundamental rights of the human person and the public freedoms.

The Constitutional Court is the guarantor of the distribution of competences between the Union and the Islands.

It is charged to decide on the conflicts of competence between two or several institutions of the Union, between the Union and the Islands and between the Islands themselves.

Any citizen can refer the Constitutional Court to [a matter] concerning the constitutionality of the laws, either directly or by the procedure of a pleadings [*excéption*] of unconstitutionality in an affair that concerns him before a jurisdiction of the Union or of the Islands. These must suspend [proceedings] until the decision of the Constitutional Court which must intervene within a time of thirty days.

Article 32

The President of the Union, the Vice Presidents of the Union, the President of the Assembly of the Union, as well as the Heads of the Executives of the Islands each appoint one member of the Constitutional Court.

Article 33

The members of the Constitutional Court must be of great morality and probity as well as of recognized competence in the juridical, administrative, economic or social domain. They must demonstrate [*justifier*] a minimal professional experience of fifteen years. They are appointed for a mandate of six-years[,] renewable.

The President of the Constitutional Court is designated by his peers for a mandate of a duration of six years[,] renewable.

The members of the Constitutional Court are not removable. Except in the case of [a] flagrant offense, they may not be prosecuted or arrested without authorization of the High Jurisdiction

The functions of member of the Constitutional Court are incompatible with the quality of member of the institutions of the Union or of the Islands, as well as with any public office [*emploi*] or professional activity.

Article 34

An organic law determines the rules of organization and of functioning of the Constitutional Court, the procedure to be followed before it and notably the conditions, modalities and time [limit] for referring it to [a matter], as well as the status, the immunities and the disciplinary regime of its members.

Article 35

A provision declared unconstitutional is null and may not be implemented. The decisions of the Constitutional Court are not susceptible to any recourse. They impose themselves on any authority as well as on the jurisdictions on all the territory of the Union.

TITLE V OF THE CONSULTATIVE ORGANS

Article 36

Consultative organs may be created under the Presidency of the Union. The consultative organs, including the Council of Ulemas and the Economic and Social Council assist as need be, the Government of the Union and the Heads of the Executives of the Island in the formulation of the decisions affecting [*touchant*] the religious, economic and social life of the country.

A law of the Union establishes the modalities of consultation and of functioning of these organs.

TITLE VI OF THE REVISION OF THE CONSTITUTION

Article 37

The initiative of revision of the Constitution belongs concurrently to the President of the Union and to at least one-third of the members of the Assembly of the Union. To be adopted, the Bill or proposal of revision must be approved by two-thirds of the total of the number of the members of the Assembly of the Union as well as by two-thirds of the total number of members of the Councils of the Islands[,] or by referendum.

No procedure of revision may be initiated or pursued when it infringes the unity of the territory and the inviolability of the internationally recognized frontiers as well as the autonomy of the Islands.

TITLE VII OF THE TRANSITORY PROVISIONS

Article 38

The institutions of the Union provided for by this Constitution shall be established within a period not exceeding twelve months from the adoption of this Constitution.

Article 39

The institutions of Maoré (Mayotte) shall be established within a period not exceeding six months[,] counting from the day where the situation which prevents that Island from effectively rejoining the Union of the Comoros comes to an end.

This Constitution will be revised in order to account [for] the institutional consequences of the return of Maoré (Mayotte) within the Union.

Article 40

This Constitution will be adopted by way [*voie*] of referendum.