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## *Gabon*

**Constitution of the Gabonese Republic**  
**26 March 1991**  
**As Amended by Law No. 1/97**  
**22 April 1997**

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# CONSTITUTION OF THE GABONESE REPUBLIC

## Law No. 3/91

The National Assembly deliberated and adopted;

The President of the Republic, Head of State, promulgates the law of which the tenor is as follows:

### PREAMBLE

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

The Gabonese people, conscious of their responsibility before History, animated by the willingness to assure its independence and its national unity, to organize the common life according to the principles of national sovereignty, of pluralist democracy, of social justice, and of republican legality;

Solemnly affirm their adherence to the Rights of Man and to the fundamental freedoms such as they result from the Declaration of the Rights of Man and of the Citizen of 1789, and [from] the Universal Declaration of the Rights of Man of 1948, consecrated by the African Charter of the Rights of Man and of Peoples of 1981, and by the National Charter of Freedoms of 1990;

Solemnly proclaims their adherence to their profound and traditional social values, to their cultural, material and spiritual patrimony, to the respect for the freedoms, for the rights and for the duties of the citizen.

By virtue of these principles and of that of the sovereignty of the people, they adopt this Constitution.

### PRELIMINARY TITLE

#### OF FUNDAMENTAL PRINCIPLES AND RIGHTS

##### Article 1

The Gabonese Republic recognizes and guarantees the inviolable and imprescriptible Rights of Man, which obligatorily bind the public powers.

1) each citizen has the right to the free development of his personality, within respect for the rights of others and of the public order. No one may be humiliated, mistreated or tortured, even when he is in a state of arrest or of imprisonment;

2) the freedom of conscience, of thought, of opinion, of expression, of communication, the free practice of religion, are guaranteed to all, under reserve of respect for the public order;

3) the freedom to come and go in the interior of the territory of the Gabonese Republic, to leave it and to reenter it, is guaranteed to all Gabonese citizens, under reserve of respect for public order;

4) the right to [a] defense, within the framework of a process, are guaranteed to all; preventative detention must not exceed the time provided for by the law;

5) the secrecy of correspondence, of postal, telegraphic, telephonic, and telematic [*télématique*] communications is inviolable. Restrictions to this inviolability may only be ordered in application of the law, for reasons of public order and of security of the State;

6) the limits of the usage of computing systems [*informatique*] for [the] safeguarding of Man, personal and family intimacy of persons, and the plain exercise of their rights, are established by the law;

7) each citizen has the right to work and the right to obtain an employment. No one may be prejudiced in their work by virtue of their origins, of their gender [*sexe*], of their race, [or] of their opinions;

8) the State, according to its possibilities, guarantees to all, notably to the child, to the mother, to the handicapped, to the aged workers and to the elderly, the protection of health, social security, a preserved natural environment, rest and leisure.

9) all Gabonese citizens sojourning or residing abroad benefit from the protection and the assistance of the State, within the conditions established by the national laws or the international agreements;

10) all persons, either individually or collectively, have the right to property. No one may be deprived of their property, except for cause of public necessity, legally declared, demanding it and subject to the condition a just and prior indemnification; however, the expropriations of immovable [assets] engaged for cause of public utility, for insufficiency or absence of exploitation [*mis en valeur*], and concerning registered properties, are regulated by the law;

11) all Gabonese have the right to freely establish their domicile or their residence in any place of the national territory and to exercise there all activities, under reserve of respect for public order and of the law;

12) the domicile is inviolable. Search may only be ordered by a judge or by other authorities designated by the law. Searches may only be executed in the forms prescribed for them. The measures infringing the inviolability of the domicile or limiting it may only be taken to evade collective dangers or to protect the public order from imminent threats, notably to fight against the risks of epidemics or to protect persons in danger;

13) the right to form political associations, parties or formations, syndicates, societies, establishments of social interests as well as religious communities, is guaranteed to all within the conditions established by the law; the religious communities regulate and administer their affairs in an independent manner, under reserve of respect for the principles of national sovereignty, public order and of preserving the moral and mental integrity of the individual.

The political associations, parties or formations, syndicates, societies, establishments of social interests as well as the religious communities of which the activities are contrary to the laws, or to the good relationship between the ethnic groups or groupings [*groupes ou ensembles*] may be prohibited according to the terms of the law.

Any act of racial, ethnic or religious discrimination, as well as any regionalist propaganda capable of infringing the internal or external security of the State or the integrity of the Republic are punished by the law;

14) the family is the basic natural unit of society; marriage is [its] legitimate support. They are placed under the particular protection of the State;

15) the State has the duty to organize a general census of the population every ten years;

16) the care [*soins*] to be given to children and their education constitute, for parents, a natural right and a duty which they exercise under the surveillance and with the aid of the State and the public collectivities. Parents have the right, within the framework of the scholarly obligation, to decide on the moral and religious education of their children. The children have, vis-a-vis the State, the same rights in what concerns assistance as well as their physical, intellectual and moral development;

17) the protection of youth against exploitation and against moral, intellectual and physical abandonment, is an obligation of the State and of the public collectivities;

18) the State guarantees equal access of the child and of the adult to instruction, to professional training and to culture;

19) the State has the duty to organize public teaching [*enseignement*] on the principle of the religious neutrality and, according to its possibilities, on the basis of gratuity; the presentation of diplomas [*collation des grades*] remains the prerogative of the State;

However, the freedom of teaching is guaranteed to all. Any person may open a preschool, primary, secondary, [or] superior establishment or a university, within the conditions established by the law.

The law establishes the conditions of participation of the State and of the public collectivities in the financial expenditures of the private establishments of teaching, recognized of public utility.

In the public establishments of teaching, the religious instruction may be dispensed to students at the demand of their parents, within the conditions determined by the regulations.

The law establishes the conditions of functioning of private teaching establishments taking into account their specificity;

20) the nation proclaims the solidarity and the equality of all before the public expenditures; everyone must participate, in proportion to their resources, to the financing of public expenses.

The nation proclaims in addition the solidarity of all before the expenditures which result from natural and national calamities;

21) each citizen has the duty to defend the fatherland and the obligation to protect and to respect the Constitution, the laws and the regulations of the Republic;

22) the defense of the nation and the safeguarding of the public order are essentially assured by the forces of national defense and security. In consequence, no person, no group of persons may constitute themselves in [a] private militia or paramilitary grouping; the forces of national defense and security are at the service of the State.

In times of peace, the Gabonese Armed Forces may participate in the work of economic and social development of the nation;

23) no one may be arbitrarily detained [*détenu*];

No one may be detained [*gardé à vue*] or placed under [a] mandate of detention [*mandat de dépôt*] if they present the sufficient guarantees of representation, under reserve of necessities of security and of procedure.

All defendants are presumed innocent until the establishment of their culpability following a regular process, offering the indispensable guarantees to their defense.

The judicial power, guardian of the individual freedom, assures the respect for these principles within the time periods established by the law.

## **TITLE I**

### **OF THE REPUBLIC AND OF SOVEREIGNTY**

#### **Article 2**

Gabon is an indivisible, secular, democratic and social Republic. It affirms the separation of the State and of the religions and recognizes all beliefs, under reserve of respect for the public order.

The Gabonese Republic assures the equality of all citizens before the law, without distinction of origin, of race, of gender, of opinion or of religion.

The national emblem is the tricolor flag, green, yellow, blue in three horizontal bands, of equal dimension.

The national anthem is “*La Concorde*”.

The motto of the Republic is: “*Union-Travail-Justice*” [Union-Work-Justice].

The seal of the Republic is a “Nursing Maternity”.

Its principle is: “Government of the people, by the people and for the people.”

The Gabonese Republic adopts French as [the] official language of work. In addition, it works for the protection and the promotion of the national languages.

The capital of the Republic is Libreville. It may only be transferred by virtue of a referendum law.

The national holiday is celebrated on 17 August.

#### Article 3

*[Amended by Law No. 1/94 of 18 March 1994]*

National sovereignty belongs to the people who exercises it directly, by the referendum or by the election, according to the principle of pluralist democracy, and indirectly by the constitutional institutions.

No section of the people, no group, [or] no individual may arrogate the exercise of national sovereignty.

#### Article 4

*[Amended by Law No. 1/94 of 18 March 1994]*

Suffrage is universal, equal and secret. It can be direct or indirect, within the conditions provided for by the Constitution or by the law.

Within the conditions provided for by the law, all Gabonese of both genders, having attained 18 years of age, enjoying their civil and political rights[,] are electors.

With the conditions provided for by the Constitution and by the law, all Gabonese of both sexes, enjoying their civil and political rights, are eligible.

#### Article 5

*[Amended by Law No. 1/94 of 18 March 1994]*

The Gabonese Republic is organized according to the principles of national sovereignty, of the separation of the executive, legislative, and judicial powers and that of the State of Law.

#### Article 6

*[Amended by Law No. 1/94 of 18 March 1994]*

The political parties and groups concur in the expression of suffrage. They form themselves and exercise their activities freely, within the order established by the law, according to the principles of multipartism.

They must respect the Constitution and the laws of the Republic.

#### Article 7

Any act infringing the republican form, the unity, the secularity of the State, the sovereignty and the independence, constitutes a crime of high treason punishable by the law.

**TITLE II  
OF THE EXECUTIVE POWER**

**I  
OF THE PRESIDENT OF THE REPUBLIC**

Article 8

The President of the Republic is the Head of the State; he sees to the respect for the Constitution; he assures, by his arbitration, the regular functioning of the public powers as well as the continuity of the State.

He is the guarantor of the national independence, of the integrity of the territory, of respect for the agreements and for the treaties.

He determines, in concert [*concertation*] with the Government, the policy of the nation.

He is the supreme holder of the executive power which he shares with the Prime Minister.

Article 9

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

The President of the Republic is elected for seven (7) years by direct universal suffrage. He is re-eligible one time.

The President of the Republic is elected by the absolute majority of the suffrage expressed. If this is not obtained in the first round, it proceeds to a second round, the second Sunday following, the proclamation of the results by the Constitutional Court.

Only the two candidates having received the largest number of votes in the first round may present themselves in the second round.

In the second round, the election is acquired with the absolute majority of the suffrage expressed.

Article 10

*[Amended by Law No. 1/97 of 22 April 1997]*

If, before the first round, one of the candidates dies or finds himself incapacitated, the Constitutional Court decides the postponement of the election.

In the case of death or of incapacity of one of the two most favored candidates in the first round before eventual withdrawals, the Constitutional Court declares that it must be proceed de novo to the whole of the electoral operations; it is the same in the case of the death or of the incapacity of one of the two candidates remaining in competition in the second round.

The Constitutional Court may extend the time periods specified, in accordance with Article 11 below, [and] the ballot may not take place more than thirty-five days after the date of the decision of the Constitutional Court. If the application of the provisions of this paragraph have for effect to delay the election to a date later than the expiration of the mandate of the President in exercise, he remains in [his] function until the election of his successor.

All Gabonese of both genders, enjoying their civil and political rights, at least forty (40) years of age[,] are eligible to the Presidency of the Republic.

No person having acquired the Gabonese nationality may present himself as a candidate to the Presidency of the Republic. Only his descendants having

remained without discontinuity in Gabon may [so do], starting with the fourth generation.

The modalities of application of this Article are established by an organic law.

#### Article 11

*[Amended by Law No. 1/97 of 22 April 1997]*

The mandate of the President of the Republic debuts the day he takes the oath and ends at the expiration of the seventh year following his election.

The election of the President of the Republic takes place at least one month and at most two months, before the expiration of the mandate of the President in exercise.

He may not shorten his mandate in whatever manner in order to solicit another.

If the President of the Republic in exercise presents himself as a candidate, the National Assembly may not be dissolved. He may not, in addition, from the moment of the official announcement of his candidature until the election, exercise his power to legislate by ordinance. In the case of necessity, the National Assembly is convoked in extraordinary session.

#### Article 11a

*[Amended by Law No. 1/94 of 18 March 1994]*

The taking of the oath defines [*marque*] the debut of the presidential mandate. It cannot take place before the decision of the Constitutional Court concerning any electoral disputes to which it has been referred. The decision of the Constitutional Court intervenes within a maximum time period of one month counting from the fifteenth day which follows the proclamation of the results of the election.

If there are no disputes, the President of the Republic elect or reelect takes his oath on the expiration of the mandate of the current President.

If there are disputes, the current President of the Republic remains in [his] functions until the decision of the Constitutional Court.

In the case of death or definitive incapacity of the current President of the Republic [who has not been] reelected[,] intervening before the end of his mandate, the President elect immediately takes the oath if there are no disputes. In the case of a dispute[,] the interim is assured in accordance with the provisions of Article 13 below.

The death or definitive incapacity of the President of the Republic[,] elect or reelect, intervening within the period between the proclamation of the results [and] of the expiration of the mandate of the current president or of the decision of the Constitutional Court in case of dispute, leads to the repetition of the whole of the electoral operations within the conditions and time periods provided for in Article 10 above. In this case, once the vacancy is declared, the functions of the President of the Republic are assured in accordance to the provisions of Article 13 below.

During the period between the proclamation of the results of the presidential election and the debut of a new presidential mandate, the National Assembly may be not dissolved, nor the revision of the Constitution [be] started or achieved.

#### Article 12

When entering into [his] function, the President of the Republic solemnly takes the oath below, in [the] presence of the Parliament, [and] of the Constitutional Court, the left hand placed on the Constitution, the right hand raised before the national flag:



*“I swear to consecrate all my efforts for the good of the Gabonese People, with the view of assuring its well-being and to preserve it from all damages, to respect and to defend the Constitution and the State of Law, to conscientiously fulfill the duties of my function [charge] and to be just toward all.”*

#### Article 13

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

In the case of vacancy of the Presidency of the Republic for whatever cause that may be or of definitive incapacity of its office-holder [*titulaire*], declared by the Constitutional Court referred to [the matter] by the Government and deciding by the absolute majority of its members, or in default, by the Bureaus of the two Chambers of the Parliament deciding jointly by the majority of their members, the functions of the President of the Republic, with the exception of those provided for in Articles 18, 19 and 116, 1<sup>st</sup> paragraph, are provisionally exercised by the President of the Senate or, in case of incapacity of him duly declared by the Constitutional Court referred to [the matter] in the same conditions as above, by the First Vice President of the Senate.

The authority that assures the interim of the Presidency of the Republic, within the conditions of this Article, may not present himself as [a] candidate in the presidential election.

In the case of vacancy or when the incapacity is declared definitive by the Constitutional Court, the ballot for the election of the new President takes place, except in the case of force majeure declared by the Constitutional Court, at least thirty days and at the most forty-five days after the opening of the vacancy or of the declaration of the definitive character of the incapacity.

#### Article 14

The functions of President of the Republic are incompatible with the exercise of any other public function and private activity of a lucrative character.

#### Article 14a

*[Inserted by Law No. 1/97 of 22 April 1997]*

The President of the Republic is assisted by a Vice President of the Republic.

The Vice President of the Republic is appointed by the President of the Republic who terminates his functions, after consultation of the Presidents of the two Chambers of the Parliament. The Vice President of the Republic is chosen from within the Parliament or outside of it.

#### Article 14b

*[Inserted by Law No. 1/97 of 22 April 1997]*

The functions of Vice President of the Republic are incompatible with the exercise of any other public function or private activity of lucrative character.

#### Article 14c

*[Inserted by Law No. 1/97 of 22 April 1997]*

The Vice President of the Republic takes an oath on the Constitution before the President of the Republic and in the presence of the Constitutional Court in the following terms:

*“I swear to respect the Constitution and the State of Law, to conscientiously fulfill the duties of my charge in strict respect of its obligations of loyalty and confidentiality with regard to the Head of State.”*

#### Article 14d

*[Inserted by Law No. 1/97 of 22 April 1997]*

The Vice President of the Republic substitutes for the President of the Republic in the functions which he delegates to him.

The modalities of application of this Article are established by an organic law.

#### Article 14e

*[Inserted by Law No. 1/97 of 22 April 1997]*

The functions of Vice President of the Republic cease on the issue of the proclamation of the presidential election by the Constitutional Court, and in case of vacancy of the Presidency of the Republic for any cause that may be or of the definitive incapacity of the President of the Republic.

#### Article 15

*[Amended by Law No. 1/94 of 18 March 1994]*

The President of the Republic appoints the Prime Minister.

He terminates his functions, on his own initiative, or on the presentation by the Prime Minister of the resignation of the Government, or following a vote of no confidence or the adoption of a motion of censure by the National Assembly.

On proposal of the Prime Minister, he appoints the other members of the Government and terminates their functions.

#### Article 16

*[Amended by Law No. 1/97 of 22 April 1997]*

The President of the Republic convokes and presides over the Council of Ministers and orders *[arrête]* the agenda.

The Vice President is a member of it of right. He substitutes, as need be, for the President of the Republic[,] expressly enabled and for a specific agenda.

#### Article 17

*[Amended by Law No. 1/94 of 18 March 1994]*

The President of the Republic promulgates the laws definitively adopted within the twenty-five days which follow their transmission to the Government. This time period may be reduced to ten days in the case of urgency declared by the National Assembly or the Government.

The President of the Republic can, during the time period of promulgation, demand of the Parliament a new deliberation of the law or of certain of its Articles. This new deliberation may not be refused. The text so submitted to a second deliberation must be adopted by a majority of two-thirds of its members, either in its original form, or after modification. The President of the Republic promulgates it within the time periods established above.

In default of promulgation of the law by the President of the Republic within the conditions and time periods above, he must refer the text to the Constitutional Court.

In case of rejection of the recourse by the Constitutional Court, the President of the Republic promulgates the law within the conditions and time periods provided for above.

#### Article 18

The President of the Republic, on his own initiative, or on proposal of the Government, or on proposal of the National Assembly taken by the absolute

majority of its members may, during the time of the sessions, submit to referendum any bill of law concerning application of the principles contained in the Preamble or the Preliminary Title of the Constitution and directly or indirectly concerning the functioning of the institutions.

When the referendum has concluded with the adoption of the bill, the President of the Republic promulgates it in accordance with Article 17 above.

#### Article 19

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

The President of the Republic can, after consultation of the Prime Minister and of the Presidents of the Chambers of the Parliament, pronounce the dissolution of the National Assembly.

However, the recourse to this prerogative, limited to two times in the course of the same presidential mandate, may not intervene consecutively within the twelve months which follow the first dissolution.

The general elections take place at least thirty days and at most forty-five days, after publication of the decree concerning dissolution.

The National Assembly meets of plain right the second Tuesday which follows its election. If this meeting takes place outside of the time periods provided for the ordinary sessions, a session is opened of plain right for a duration of fifteen days.

#### Article 20

The President of the Republic appoints, in the Council of Ministers, to the superior civil and military employments [*emplois*] of the State, in particular, the ambassadors and the envoys extraordinary as well as the superior and general officers.

An organic law defines the mode of accession to these employments.

#### Article 21

The President of the Republic accredits the ambassadors and envoys extraordinary before the foreign powers and to the international organizations. The ambassadors and envoys extraordinary are accredited before him.

#### Article 22

The President of the Republic is the Supreme Head of the armed forces and [forces] of security. He presides over the superior councils and committees of the national defense.

He is substituted, the case arising, by the Prime Minister, on an express enablement and for a determined agenda.

#### Article 23

The President of the Republic has the right of pardon.

#### Article 24

*[Amended by Law No. 1/97 of 22 April 1997]*

The President of the Republic communicates with each Chamber of the Parliament by messages which he has read by the President of each of them. On his demand, he may be heard by either of the Chambers. Out of session, each of the Chambers is specially convoked to this effect. These communications do not give rise to any debate.

#### Article 25

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

The President of the Republic can, when circumstances require it, after deliberation of the Council of Ministers and after consultation with the Bureaus of the National Assembly and of the Senate, proclaim by decree the state of urgency or the state of siege, which confers special powers to him, within the conditions determined by the law.

#### Article 26

When the institutions of the Republic, the independence or the superior interests of the nation, the integrity of its territory or the execution of its international engagements are menaced in a grave and immediate manner and that the regular functioning of the constitutional public powers is interrupted, the President of the Republic takes by ordinance, during the inter-sessions, promptly, the measures demanded by the circumstances, and after official consultation with the National Assembly as well as with the Constitutional Court.

He informs the nation of this [*en*] by a message.

During the sessions, these measures arise within the domain of the law.

The National Assembly may not be dissolved, nor the revision of the Constitution opened or achieved.

#### Article 27

*[Amended by Law No. 1/97 of 22 April 1997]*

The acts of the President of the Republic other than those specified in Articles 15 paragraph 1, 17 paragraphs 1, 2, and 3, [Articles] 18, 19, 23, 89, 98 and 116, must be countersigned by the Prime Minister and the the members of the Government responsible for their execution.

## II

### OF THE GOVERNMENT

#### Article 28

The Government conducts the policy of the nation, under the authority of the President of the Republic and in concert with him.

It has at [its] disposal, to this effect, the administration of the forces of defense and of security.

The Government is responsible before the President of the Republic and the National Assembly, within the conditions and the procedures provided for by this Constitution.

#### Article 28a

*[Inserted by Law No. 1/94 of 18 March 1994; amended by Law No. 1/97 of 22 April 1997]*

Within a time period of forty-five (45) days at most, after his appointment and after deliberation of the Council of Ministers, the Prime Minister presents to the National Assembly his general political program which gives rise to a debate, followed by a vote of confidence. The vote is acquired by the absolute majority of the members of the National Assembly.

#### Article 29

The Prime Minister directs the action of the Government. He assures the execution of the laws. Under reserve of the provisions of Article 20 above, he exercises the

regulatory power and appoints to the civil and military employments of the State. He substitutes for the President of the Republic in the specified [*précités*] cases. He can delegate certain of his powers to other members of the Government.

The interim of the Prime Minister is assured by a member of the Government designated by a decree of the President of the Republic, in accordance with the order of nomination of the decree establishing the composition of the Government.

The Minister assuring the interim of the Prime Minister is invested, by temporary title, with the plenitude of the powers of the Prime Minister.

The acts of the Prime Minister are countersigned by the members of the Government responsible for their execution.

#### Article 29a

*[Inserted by Law No. 1/94 of 18 March 1994; amended by Law No. 1/97 of 22 April 1997]*

The Prime Minister can, when the circumstances require it, after deliberation of the Council of Ministers and consultation [*information*] with the Presidents of the Chambers of the Parliament, proclaim by order the state of readiness [*état de mise en garde*], within the conditions determined by the law.

The proclamation of the state of alert [*état de alerte*], by order of the Prime Minister, takes place after deliberation of the Council of Ministers and consultation [*consultation*] with the Bureaus of the two Chambers.

The extension of the state of readiness or the state of alert for more than twenty-one days is authorized by the Parliament.

#### Article 30

*[Amended by Law No. 1/94 of 18 March 1994]*

The bills of law, of ordinances and of regulatory decrees are deliberated in the Council of Ministers, after the opinion [*avis*] of the Administrative Court.

#### Article 31

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

The Government is composed of the Prime Minister and the other members of the Government.

The Prime Minister is the Head of the Government.

The members of the Government are chosen from within the Parliament and outside of it. They must be thirty years of age at least and enjoy their civil and political rights.

A member of the Government is eligible to a national mandate and to a local mandate.

#### Article 32

The functions of member of the Government are incompatible with the exercise of a parliamentary mandate.

An organic law establishes the treatments and the advantages granted to the members of the Government and enumerates the other public functions and private activities of which the exercise is incompatible with their functions.

#### Article 33

The members of the Government are [in] political solidarity [*politiquement solidaires*]. They are criminally responsible for the crimes and misdemeanors committed in the exercise of their functions.

Article 34

*[Amended by Law No. 1/94 of 18 March 1994]*

The functions of the Government cease with the taking of the oath by the President of the Republic, and with the proclamation of the results of the legislative elections by the Constitutional Court.

In case of resignation, the Government assures the expedition of current affairs until the constitution of a new Government.

**TITLE III**

**OF THE LEGISLATIVE AUTHORITY**

Article 35

*[Amended by Law No. 1/94 of 18 March 1994]*

The legislative power is represented by a Parliament composed of two Chambers: the National Assembly and the Senate.

The members of the National Assembly have the title of Deputy. They are elected for a term of five years by direct universal suffrage.

The members of the Senate have the title of Senator. They are elected for a term of six years by indirect universal suffrage. They must be forty years of age at least. The Senate assures the representation of the local collectivities.

The Chambers of the Parliament are completely renewed at the termination of their mandate.

No division of the electoral circumscriptions may proceed within the year preceding the normal date of renewal of each of the Chambers.

Article 36

The Parliament votes the law, consents to taxes and controls the action of the executive power within the conditions provided for by this Constitution.

Article 37

*[Amended by Law No. 1/94 of 18 March 1994]*

An organic law establishes, for each of the Chambers, the number of parliamentarians, their indemnity, the modalities and the conditions of their election, as well as the regime of ineligibilities and incompatibilities.

It equally establishes the conditions within which the persons[,] named to assure, in case of vacancy of a seat, the replacement of parliamentarians until the renewal of the concerned Chamber, are elected, as well as the regime of ineligibilities and of incompatibilities.

Article 38

*[Amended by Law No. 1/94 of 18 March 1994]*

No member of the Parliament may be prosecuted, investigated, arrested, detained or judged on the occasion of the opinions or votes emitted by him in the exercise of his functions.

No member of Parliament, during the duration of the sessions, may be prosecuted, investigated, or arrested in a criminal, correctional or simple police matter without the authorization of the Bureau of the interested Chamber, except in the case of flagrant offense or of definitive condemnation.

The detention or the prosecution of a member of Parliament is suspended until the end of his mandate, except in the case of waiving of the parliamentary immunity.

#### Article 39

*[Amended by Law No. 1/94 of 18 March 1994; Law No. 18/95 of 29 September 1995]*

Any imperative mandate is null.

However, in the case of resignation or of exclusion within the statutory conditions, of a member of Parliament, from a political party to which he belongs at the moment of his election, and if this party has presented his candidature, his seat becomes vacant from the date of his resignation or of its exclusion.

It then proceeds, within a time period of two months at most, to a partial election.

The right to vote of the members of Parliament is personal.

The regulations of each Chamber exceptionally authorize the delegation of the vote.

No one may receive delegation of more than one mandate.

#### Article 40

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

Each Chamber of the Parliament meets of plain right the first business [*ouvrable*] day following the fifteenth day after its election. Its agenda includes then[,] exclusively[,] the election of its President of its Bureau.

The Presidents and the other members of the Bureaus of the National Assembly and of the Senate are elected by their peers for all the duration of the legislature, by secret ballot, in accordance with the provisions of the regulations of the concerned Chamber.

At any moment, after their entry into [their] functions, the concerned Chamber may relieve the President and the other members of the Bureau of their mandate following a vote of no confidence, by absolute majority.

#### Article 41

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

The Parliament meets of plain right in the course of two sessions per year.

The first session is opened on the first working day of March and terminates, at the latest, on the last working day of June.

The second session is opened on the first working day of September and terminates, at the latest, on the last working day of December.

#### Article 42

The Parliament meets of plain right during the duration of the state of siege and in the case provided for in Article 26 above.

#### Article 43

*[Amended by Law No. 1/94 of 18 March 1994]*

The Chambers of the Parliament meet in extraordinary session, on convocation of their President, for a determined agenda, at the demand, either of the President of the Republic on proposal of the Prime Minister, or of the absolute majority of their members.

The extraordinary sessions are opened and closed by decree of the President of the Republic.

They may not exceed a time period of fifteen days.

#### Article 44

*[Amended by Law No. 1/94 of 18 March 1994]*

The sessions of the Parliament are public. A complete account of the debates is published in the *Journal des débats* [Journal of Debates].

Each of the two Chambers can, under the control of its Bureau, have broadcast by the media of the State a retransmission of the debates, within respect for pluralism and conforming to the provisions of its regulations.

Each of the two Chambers may receive the President of the Republic or a foreign Head of State or of [a] Government.

Each Chamber of the Parliament may sit in closed session at the demand, either of the President of the Republic, or of the Prime Minister or of one-fifth of its members.

#### Article 45

*[Amended by Law No. 1/94 of 18 March 1994]*

Each Chamber of the Parliament adopts its regulations which enter into force only after having been recognized as conforming to the Constitution by the Constitutional Court. Any subsequent modification is equally submitted to the latter.

#### Article 46

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

Each Chamber of the Parliament enjoys administrative and financial autonomy.

### **TITLE IV**

### **OF THE RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER**

#### Article 47

*[Amended by Law No. 1/94 of 18 March 1994]*

Outside of the cases expressly provided for by the Constitution, the law establishes the rules concerning:

- the exercise of the fundamental rights and duties of citizens;
- the constraints imposed on Gabonese and on foreigners in their person and their assets, with a view to, notably, public utility and national defense;
- nationality, the state and the capacity of the persons, the matrimonial regimes, the inheritance and gifts, the status of foreigners and immigration;
- the organization of civil estate;
- audiovisual, cinematographic or written communication;
- the conditions of the usage of computing systems [*informatique*] so that honor, the personal and family intimacy of citizens, as well as the plain exercise of their rights are safeguarded;
- the electoral regime of the National Assembly and of the local assemblies;
- judicial organization, the creation of new orders of jurisdiction and the status of the magistrates;
- the organization of the ministerial and public offices, the professions of ministerial officers;



- the determination of crimes and misdemeanors as well as of the penalties which are applicable to them, the criminal procedure, the penitentiary regime and amnesty;
- the state of readiness [*mise en garde*], the state of urgency, the state of alert and the state of siege;
- the regime of the associations, of the parties, of the political formations, and of the trade-unions;
- the basis, the tax and the modalities of collecting taxes of all natures, the regime of issuance of the currency;
- the general status of the public function and of the specific [*particuliers*] statuses;
- the nationalization of enterprises and the transfer of ownership of enterprises of the public sector to the private sector;
- the creation or the suppression of autonomous public establishments and services;
- the general administrative and financial organization;
- the creation, the functioning and the free administration of the territorial collectivities, their competences, their resources and their tax basis;
- the conditions of participation of the State in the capital of all companies [*sociétés*] and the control by it of the administration of these companies;
- the regime of [the public] domain, [of] land use, forestry, mining and habitat;
- the protection of the artistic, cultural and archeological patrimony;
- the protection of nature and of the environment;
- the regime of property, of real rights and of civil and commercial obligations;
- the loans and financial engagements of the State;
- the programs of economic and social action;
- the conditions within which the laws of finance are presented and voted and the accounts of the nation [are] regulated.
- the laws of finance determining the resources and the expenditures of the State within the conditions provided for by an organic law;
- the program laws [*lois de programme*] establishing the objectives of the State in economic, social, cultural and national defense matters.

The law determines in addition [the following] fundamental principles;

- teaching;
- health;
- social security;
- right to work;
- syndical right including the conditions of exercise of the right to strike;
- insurance and savings;
- the general organization of the national defense and of the public security.

The provisions of this Article may be made precise or made complete by an organic law.

#### Article 48

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

All the resources and the expenditures of the State must, for each financial year [*exercice financier*], be evaluated and inscribed in the annual bill of the law of finance deposited by the Government to the National Assembly thirty (30) days at the latest after the opening of the second ordinary session .

If, at the termination of the budgetary session, the Parliament adjourns [*se sépare*] without having voted [a] balanced budget [*budget en équilibre*], the Government is authorized to re-conduct by ordinance the preceding budget. This ordinance may nevertheless provide for, in case of necessity, any reduction of expenses or augmentation in receipts. At the demand of the Prime Minister, the Parliament is convoked within fifteen days in extraordinary session for a new deliberation. If the Parliament has not voted [a] balanced budget at the end of this extraordinary session, the budget is definitively established by ordinance taken in the Council of Ministers and signed by the President of the Republic.

The new receipts which may be created, if it concerns direct taxes and similar contributions or taxes, are collected counting from the first of January.

The Court of Accounts assists the Parliament and the Government in the control of the execution of the law of finance. The bill of [the] law of regulations established by the Government, accompanied by the general declaration of conformity and by the general report of the Court of Accounts, must be deposited with the Parliament at the latest at the debut of the first ordinary session of the second year which follows the fiscal year [*exercice*] of execution of the budget concerned.

#### Article 49

*[Amended by Law No. 1/94 of 18 March 1994]*

The declaration of war by the President of the Republic is authorized by the National Assembly with the majority of two-thirds of its members.

#### Article 50

*[Amended by Law No. 1/94 of 18 March 1994]*

The extension of the state of urgency or of the state of siege, beyond fifteen days, is authorized by the National Assembly deciding by the absolute majority of its members.

#### Article 51

Matters other than those which are of the domain of the law have a regulatory character. They are made the object of decrees of the President of the Republic.

These matters may, for the application of these decrees, be made the object of orders [*arrêtés*] taken by the Prime Minister or, on delegation of the Prime Minister, by the ministers responsible or by the other administrative authorities enabled to do so.

#### Article 52

The Government may, in case of urgency, for the execution of its program, demand of the Parliament the authorization to take by ordinances during the parliamentary intersession, the measures which are normally of the domain of the law.

The ordinances are taken in the Council of Ministers after the opinion of the Administrative Chamber and signed by the President of the Republic. They enter into force from their publication.

They must be ratified by the Parliament in the course of its next session.

The Parliament has the possibility to modify the ordinances by way [*voie*] of amendments.

In the absence of a law of ratification, the ordinances are struck down as lapsed.

The ordinances may be modified by another ordinance or by a law.

#### Article 53

The initiative of law belongs concurrently to the Government and to the Parliament.

#### Article 54

*[Amended by Law No. 1/94 of 18 March 1994]*

The bills of law are deliberated in the Council of Ministers, after the opinion of the Administrative Court, and deposited with the Bureau of one of the two Chambers of the Parliament.

In the name of the Prime Minister, a member of the Government is responsible for, the case arising, presenting [its] motives and supporting the discussion before the Chambers of the Parliament.

The bill or the proposal of an organic law is submitted to the deliberation and to the vote of the Parliament only after the expiration of a time period of fifteen days after its deposit.

The bills of the law of finance and the bills of revision of the Constitution are deposited in first reading to the National Assembly. The bills of law concerning the local collectivities are deposited in first reading to the Senate.

All the proposals of law transmitted to the Government by the Parliament and which were not made the object of an examination within a time period of sixty days are deliberated[, ] of office[, ] within the Parliament.

#### Article 55

*[Amended by Law No. 1/94 of 18 March 1994]*

The members of the Government have the right of amendment. The proposals of law and the amendments of parliamentary origin are irreceivable when their adoption would have as consequence, either a diminution of the public receipts, or the creation or the aggravation of a public charge without the redemption [*dégagement*/release] of the corresponding receipts.

The amendments must not be devoid of any link with the text to which they correspond.

If the Government so demands, the Chamber referred to [the matter] decides by a single vote on all or part of the text in discussion, and retaining only the amendments proposed or accepted by the Government.

#### Article 56

*[Amended by Law No. 1/94 of 18 March 1994]*

If it appears, in the course of the legislative procedure, that a text or an amendment is not of the domain of the law, in the sense of Article 47 above, or exceeds the limits of legislative habilitation granted to the Government by virtue of Article 52, the Prime Minister can raise [its] irreceivability, as well as the President of the interested Chamber, at the demand of one-fifth of its members.

In case of disagreement, the Constitutional Court is referred to [the matter]. It decides within a time period of eight days.

#### Article 57

*[Amended by Law No. 1/94 of 18 March 1994]*

The agenda of the Parliament consists of the discussion of the bills of law deposited by the Government and of the proposals of law accepted by it.

The Government is informed of the agenda of the work of the Chambers and of their commissions.

The Prime Minister and the other members of the Government have the right of access and of speech in the Chambers of the Parliament and of their commissions. They are heard at their [own] demand or at that of the parliamentary instances.

#### Article 58

Urgency of the vote of a law may be demanded, either by the Government, or by the members of the Parliament by the absolute majority.

When concerning urgency concerning the organic laws, the time period of fifteen days is reduced to eight days.

#### Article 58a

*[Inserted by Law No. 1/94 of 18 March 1994]*

Any bill or proposal of law is examined successively in the two Chambers of the Parliament with the view of the adoption of an identical text. When, following a disagreement between the two Chambers, a bill or a proposal of law could not be adopted after one single reading by each of the Chambers, the Prime Minister has the faculty to initiate the meeting of a mixed commission of the two Chambers, charged with proposing a text concerning the provisions remaining in discussion.

If the mixed commission is unable to adopt a common text, the Government refers the National Assembly [to the matter] which decides definitively.

If the mixed commission adopts a common text, this latter becomes that of Parliament only if it is adopted separately by each of the Chambers.

The procedure concerning the budget is identical to that of the ordinary law, under reserve of the particular provisions specified in Article 48 above.

#### Article 59

*[Amended by Law No. 1/94 of 18 March 1994]*

The bills and proposals of law are sent, for examination, to the competent commissions of each Chamber of the Parliament before deliberation in plenary session.

After the opening of the public debates, no amendment may be examined if it has not been previously submitted to the competent commission.

#### Article 60

The organic laws provided for in by Constitution are deliberated and voted according to the normal legislative procedure.

The organic laws, before their promulgation, are deferred to the Constitutional Court by the Prime Minister.

#### Article 61

*[Amended by Law No. 1/94 of 18 March 1994]*

The means of control of the legislative on the executive are the following: interpellations, the written and oral questions, the commissions of inquiry and of control, the motion of censure exercised by the National Assembly within the conditions provided for in Article 64 of this Constitution.

One meeting per week is reserved to the questions of the parliamentarians and to the responses of members of the Government. The questions on current [matters] may be made the object of interpellations of the Government, even during the extraordinary sessions of the Parliament.

The executive is held to furnish the Parliament all the elements of information which are demanded of it concerning its conduct and its activities.

#### Article 62

An organic law determines the conditions in which the written question may be transformed into an oral question with debate, and the conditions of organization and of functioning of the commissions of inquiry and control.

One sitting per week is consecrated to the examination of the oral questions relative to current matters.

#### Article 63

*[Amended by Law No. 1/97 of 22 April 1997]*

The Prime Minister, after deliberation of the Council of Ministers, engages the responsibility of the Government before the National Assembly, by posing the question of confidence, either concerning a declaration of general policy, or on the vote of a text of law.

The debate on the question of confidence may only intervene three working days after it was posed. Confidence may only be refused by an absolute majority of the members composing the National Assembly.

#### Article 64

The National Assembly engages [*met en cause*] the responsibility of the Government by the vote of a motion of censure. Such a motion is receivable only if it is signed by at least one-quarter of the members of the National Assembly.

The vote of the motion of censure may only take place three working days after its deposit. The motion of censure may only be adopted by an absolute majority of the members of the National Assembly.

In case of rejection of the motion of censure, its signatories may not propose a new one in the course of the same session, except in the case provided for in Article 65 below.

#### Article 65

When the National Assembly adopts a motion of censure or refuses its confidence in the Prime Minister, he must immediately remit his resignation to the President of the Republic.

The resignation of the Prime Minister entails the collective resignation of the Government.

A new Prime Minister is then appointed within the conditions provided for in Article 15.

#### Article 66

The closing of the ordinary and extraordinary sessions is delayed by right in order to permit, the case arising, the application of the provisions of Articles 25, 26 and 50 above.

**TITLE V**  
**OF THE JUDICIAL POWER**  
**I**  
**OF THE JUDICIAL AUTHORITY**

Article 67

*[Amended by Law No. 1/94 of 18 March 1994]*

Justice is rendered, in the name of the Gabonese People[,] by the Constitutional Court, the Judicial Court, the Administrative Court, the Court of Accounts, the Courts of Appeal, the Tribunals, the High Court of Justice and the other jurisdictions of exception.

Article 68

Justice is an authority 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.

Article 69

*[Amended by Law No. 1/94 of 18 March 1994]*

The President of the Republic is the guarantor of the independence of the judicial power, within respect for the provisions of this Constitution, notably in its Article 36. He is assisted by the Superior Council of the Magistrature and by the Presidents of the Judicial Courts, of the Administrative [Court], and of the [Court] of Accounts.

Article 70

The Superior Council of the Magistrature sees to the good administration of justice, and hence decides on the appointments, the apportionment [*affectations*], the advancements, and the discipline of the magistrates.

Article 71

*[Amended by Law No. 1/94 of 18 March 1994]*

The Superior Council of the Magistrature is presided over by the President of the Republic assisted by the Minister responsible for Justice, Vice President.

The legislative power is represented within the Superior Council of the Magistrature by three Deputies and two Senators chosen by the President of each Chamber of the Parliament from the different parliamentary groups, and having consultative voice.

The Minister responsible for finance assists the Superior Council of the Magistrature with consultative voice.

Article 72

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

**II**  
**OF THE JUDICIAL COURT**

*[Amended by Law No. 1/94 of 18 March 1994]*

Article 73

*[Amended by Law No. 1/94 of 18 March 1994]*

The Judicial Court is the highest jurisdiction in civil, commercial, social and criminal matters. It is divided into civil, commercial, social, and criminal chambers.

Each chamber deliberates separately, according to its domain [*chef*] of competence.

The Judicial Court may sit, [with] all chambers meeting, within the conditions provided for by the law.

The orders [*arrêts*] are invested with absolute authority over the matter judged.

Article 73a

*[Inserted by Law No. 1/94 of 18 March 1994]*

An organic law establishes the organization, the composition, the competence and the functioning of the Judicial Court, as well as the Courts of Appeal and of the Tribunals of First Instance competent in civil, commercial, social and criminal matters.

**III**  
**OF THE ADMINISTRATIVE COURT**

*[Inserted by Law No. 1/94 of 18 March 1994]*

Article 74

*[Amended by Law No. 1/94 of 18 March 1994]*

The Administrative Court is the highest jurisdiction of the State in administrative matters.

Article 75

*[Amended by Law No. 1/94 of 18 March 1994]*

In addition to its jurisdictional competences, the Administrative Court is consulted within the conditions established by the organic law provided for in Article 75b below, and [by] other laws.

Article 75a

*[Inserted by Law No. 1/94 of 18 March 1994]*

The orders [*arrêts*] of the Administrative Court are invested with absolute authority over the matter judged.

Article 75b

*[Inserted by Law No. 1/94 of 18 March 1994]*

An organic law establishes the organization, the composition, the competence and the functioning of the Administrative Court.

**IV**  
**OF THE COURT OF ACCOUNTS**

*[Inserted by Law No. 1/94 of 18 March 1994]*

Article 76

*[Amended by Law No. 1/94 of 18 March 1994]*

The Court of Accounts is responsible for the control of the public finances. To this effect:

- it assures the control of the execution of the law of finance and informs the Parliament and the Government of it;
- it verifies the regularity of the receipts and of the expenses described in the public accounts and assures, concerning these latter, the good use of the credits, funds and assets managed by the services of the State or by the other juridical persons of public law;
- it assures the verification of the accounts and of the management of the public enterprises and of the organs [*organismes*] with public financial participation;
- it judges the accounts of public accountants;
- it declares and audits the active management [*gestions de fait*];
- it sanctions the errors of management committed concerning the State, the local collectivities and the organs submitted to its control.

Article 77

*[Amended by Law No. 1/94 of 18 March 1994]*

An organic law establishes the organization, the composition, the other competences and the functioning of the Court of Accounts, as well as the rules of procedure [to be] followed before it.

**V**  
**OF THE HIGH COURT OF JUSTICE AND OF THE OTHER**  
**JURISDICTIONS OF EXCEPTION**

*[Amended by Law No. 1/94 of 18 March 1994]*

**A**  
**OF THE HIGH COURT OF JUSTICE**

Article 78

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

The High Court of Justice is a non-permanent jurisdiction of exception.

It judges the President of the Republic in the case of violation of the oath or of high treason.

The President of the Republic is impeached by the Parliament deciding by a two-thirds majority of its members, by public ballot.

During the intersession, the decree of convocation of the Parliament will be exceptionally taken by the Prime Minister.

The Vice President of the Republic, the Presidents and Vice Presidents of the constituted bodies, the members of the Government and the members of the Constitutional Court are criminally responsible before the High Court of Justice for acts accomplished in the exercise of their functions and qualified as crimes or



misdemeanors at the time they were committed, as well as their accomplices and co-authors in the case of infringement of the security of the State.

In this case, the High Court of Justice is referred to [the matter], either by the President of the Republic, or by the Presidents of the Parliament, or by the Procurator General before the Judicial Court acting of office or on referral to [the matter] by any interested person.

#### Article 79

The High Court of Justice is bound, with the exception of the judgment of the President of the Republic, by the definition of the crimes and misdemeanors as well as by the determination of the penalties such as they result from the criminal laws in force at the moment when the acts were committed.

#### Article 80

The High Court of Justice is composed of thirteen members of which seven [are] professional magistrates designated by the Superior Council of the Magistrature and six members elected by the Parliament from within it, pro rata with the elected members [*effectifs*] of the parliamentary groups.

The President and the Vice President of the High Court of Justice are elected from among the magistrates referred to in the first paragraph by the whole of the members of this institution.

#### Article 81

The rules of functioning of the High Court of Justice, the procedure applicable before it and the definition of the crimes asserted against [*reproché*] to the President of the Republic are established by an organic law.

### B

#### OF THE OTHER JURISDICTIONS OF EXCEPTION

#### Article 82

*[Amended by Law No. 1/94 of 18 March 1994]*

The other jurisdictions of exception are equally non-permanent instances, created by the law.

### TITLE VI

#### OF THE CONSTITUTIONAL COURT

#### Article 83

The Constitutional Court is the highest jurisdiction of the State in constitutional matters. It is the judge of the constitutionality of the laws 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 84

*[Amended by Law No. 1/94 of 18 March 1994; Law No. 18/95 of 29 September 1995]*

The Constitutional Court decides obligatorily on:

– the constitutionality of the organic laws and of the laws before their promulgation, of the regulatory acts that supposedly [*censés*] infringe the fundamental rights of the human person and the public freedoms;

- the regulations of the National Assembly, of the National Council of Communication and of the Economic and Social Council before their entry into application, concerning their conformity to the Constitution;
- the conflicts of attribution between the institutions of the State;
- the regularity of the presidential and parliamentary elections and of the operations of referendum of which it proclaims the results.

The Constitutional Court proclaims the results of the elections of the members of the local collectivities.

The Constitutional Court is referred to [a matter], in the case of dispute on the validity of an election, by any elector, any candidate, any political party or by the delegate of the Government within the conditions provided for by the organic law.

#### Article 85

*[Amended by Law No. 1/94 of 18 March 1994]*

The organic laws are submitted by the Prime Minister to the Constitutional Court before their promulgation.

The other categories of law, as well as the regulatory acts may be deferred to the Constitutional Court, either by the President of the Republic, or by the Prime Minister, or by the Presidents of the Chambers of the Parliament or one-tenth of the members of each Chamber, or by the Presidents of the Court of Cassation, of the Council of State and of the Judicial Court, Administrative [Court] and [Court] of Accounts, or by any citizen or any juridical person affected by the law or the contested act.

The Constitutional Court decides, according to a contradictory procedure of which modalities are established by the organic law, within the time period of one month. However, at the demand of the Government and in case of urgency, this time period is reduced to eight days. The recourse suspends the time period of promulgation of the law or the application of the act.

A provision declared unconstitutional may not be promulgated or applied.

#### Article 86

*[Amended by Law No. 1/97 of 22 April 1997]*

Any justiciable person [*justiciable*] may, on the occasion of a process before an ordinary tribunal, raise a pleading [*exception*] of unconstitutionality against a law or an act which affect recognition of [*méconnaît*] their fundamental rights.

The presiding judge refers [the matter] to the Constitutional Court by way of a prejudicial pleadings [*exception préjudicielle*].

The Constitutional Court decides within a time period of one month. If it declares the incriminatory law contrary to the Constitution, this law ceases to produce its effects counting from the decision.

The Parliament examines, during the course of the next session, within the framework of a procedure of remand [*procédure de renvoi*], the consequences deriving from the decision of non-conformity to the Constitution rendered by the Court.

#### Article 87

The international engagements, provided for in Articles 113 to 115 below must be deferred, before their ratification, to the Constitutional Court, either by the President of the Republic, or by the Prime Minister, or by the President of the National Assembly, or by one-tenth of the Deputies.

The Constitutional Court verifies, within a time period of one month, if its obligations [*engagements*] include a clause contrary to the Constitution. However, at the demand of the Government, if there is urgency, this time period is reduced to eight days.

In the affirmative, these obligations may not be ratified.

#### Article 88

*[Amended by Law No. 1/97 of 22 April 1997]*

Outside of the other competences provided by the Constitution, the Constitutional Court has [at its] disposal the power to interpret the Constitution, and the other texts of constitutional status [*valeur*], at the demand of the President of the Republic, of the Prime Minister, of the President of the Senate, of the President of the National Assembly, [or] of one-tenth of the Deputies or of [the] Senators.

#### Article 89

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

The Constitutional Court includes nine (9) appointed members who bear the title of councilors.

The duration of the mandate of the councilors is of seven (7) years renewable one time.

The nine (9) members of the Constitutional Court are designated as follows:

- three by the President of the Republic, including the President;
- three by the President of the Senate;
- three by the President of the National Assembly.

Each of the authorities specified in the paragraph above obligatorily designates two (2) jurists of which at least one [is] a magistrate. The latter is chosen from a list of aptitude established by the Superior Council of the Magistrature.

The councilors are chosen primarily from among the professors of law, the lawyers and the magistrates at least forty (40) years old and [having] fifteen (15) years of professional experience, as well as qualified persons [of distinction] having been honored for service to the State and at least forty (40) years old.

The President of the Constitutional Court is appointed for the duration of the mandate.

In the case of temporary impediment, the interim of the President is assured by the eldest councilor.

In the case of death or of resignation of a member, the new member appointed by the authority of appointment concerned completes the mandate commenced.

The former Presidents of the Republic are members of the Constitutional Court of right.

#### Article 90

*[Amended by Law No. 1/94 of 18 March 1994]*

The functions of members of the Constitutional Court are incompatible with any other public function and with any private professional activity, under reserve of the exceptions provided for by the organic law.

The members of the Constitutional Court take an oath in the course of a solemn ceremony presided over by the President of the Republic, before the Parliament, and the three Judicial Court, Administrative [Court] and [Court] of Accounts[,] together.

They take the following oath, the left hand placed on the Constitution and the right hand raised before the national flag:

“I swear to conscientiously fulfill the duties of my charge in strict respect of the obligations of neutrality and impartiality [reserve], and to conduct myself as a dignified and loyal magistrate.”

#### Article 91

*[Amended by Law No. 1/94 of 18 March 1994]*

The Constitutional Court presents a report of [its] activities each year to the President of the Republic and to the Presidents of the Chambers of the Parliament. It may, on this occasion, call the attention of the public powers to the effect [*portée*] of its decisions on legislative and regulatory matters.

#### Article 92

The decisions of the Constitutional Court are not susceptible to any recourse. They impose themselves upon the public powers, on all the administrative and jurisdictional authorities and on all physical and juridical [*morales*] persons.

#### Article 93

The rules of organization and of functioning of the Constitutional Court, as well as the procedure followed before it, are determined by an organic law.

### **TITLE VII**

#### **OF THE NATIONAL COUNCIL OF COMMUNICATION**

#### Article 94

Audiovisual and written communication is free in the Gabonese Republic, under reserve of respect for the public order, for the freedom and for the dignity of citizens.

#### Article 95

A National Council of Communication is instituted for this effect responsible for seeing to:

- respect for the expression of democracy and the freedom of the press throughout the territory;
- access of citizens to a free communication;
- equal treatment of all political parties and associations;
- respect for the rules concerning the conditions of production, of programming and of diffusion of the emissions relative to the electoral campaigns;
- control of the programs and of the regulations in force in matters of communication, as well as of the rules of exploitation;
- respect for the status of the professionals of communications;
- the harmonization of the programs among the public channels of radio and television;
- the policy of production of the audiovisual and cinematographic works;
- the promotion and the development of techniques of communication and of the training of personnel;
- respect for the quotas of the Gabonese programs diffused on the public and private radio and television channels;
- control of the content and of the modalities of the programming of the emissions of publicity diffused by the public and private radio and television channels;

- control of the specifications of contracting [*cahier de charges*] of the public and private enterprises;
- the protection of childhood and youth [*adolescence*] in the programming of the emissions diffused by the public and private enterprises of audiovisual communication;
- the defense of and the illustration of Gabonese culture.

#### Article 96

In the case of violation of the law by the interested parties, the National Council of Communication may address to them public observations and have the appropriate sanctions applied.

#### Article 97

Any conflict opposing the National Council of Communication against another public organ [*organisme*] will be resolved through the diligence of one of the parties by the Constitutional Court.

#### Article 98

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

The National Council of Communication consists of nine (9) members designated as follows:

- three by the President of the Republic, including the President;
- three by the President of the Senate;
- and three by the President of the National Assembly.

Each of the authorities specified in the paragraph above obligatorily designates two specialists in communication.

#### Article 99

The members of the National Council of Communication must have competence in matter of communications, of public administration, of the sciences, of the law, of culture or of the arts, have a professional experience of at least fifteen years and be at least forty years of age.

#### Article 100

The duration of the mandate of the members of the National Council of Communication is of five years renewable one time.

In the case of death or of resignation of a member, the new member appointed by the concerned appointing authority completes the original mandate.

#### Article 101

*[Amended by Law No. 1/97 of 22 April 1997]*

The President of the National Council of Communication is appointed for the whole duration of the mandate.

In case of temporary vacancy, the interim of [the] President is assured by the oldest councilor.

#### Article 102

An organic law establishes the organization and the functioning of the National Council of Communication, as well as the regime of incompatibilities.

**TITLE VIII**  
**OF THE ECONOMIC AND SOCIAL COUNCIL**

Article 103

The Economic and Social Council, under reserve of the provisions of Article 8, paragraph 3, [Article] 28 paragraph 1 and Article 53 above has competence over all aspects of economic, social and cultural development:

- the general orientation of the economy of the country;
- the financial and budgetary policy;
- the raw materials [*matières premières*] policy;
- the social and cultural policy;
- the environmental policy.

Article 104

The Economic and Social Council participates in all commissions of national interest of an economic and social character.

It collects and redirects, with the participation of the different entities that compose it, to the attention of the President of the Republic, of the Government and of the Parliament, the annual collection of the expectations, of the needs and of the problems of the civil society with orientations and proposals.

Article 105

*[Amended by Law No. 1/94 of 18 March 1994]*

The Economic and Social Council is charged to give its opinion on the questions of economic, social or cultural character brought to its examination by the President of the Republic, the Government, the Parliament or any other public institution.

It is obligatorily consulted on any draft of a plan or any draft of a program of economic, social or cultural character, as well as on all legislative provisions of fiscal, economic, social or cultural character. It may, from the outset, be associated with their drafting.

The Economic and Social Council is referred to [a matter], in the name of the Government, by the Prime Minister[,] by demands for opinion or for studies.

Article 106

The Economic and Social Council may equally proceed with the analysis of any problem of economic or social development. It submits its conclusions to the President of the Republic, to the Government and to the National Assembly.

Article 107

The Economic and Social Council may designate one of its members, at the demand of the President of the Republic, of the Government or of the National Assembly, to present before these organs the opinion of the Council on the bills or proposals submitted to it.

The Government and the Parliament have the obligation, when they are referred to [a matter], to follow up on the opinions and reports formulated by the Economic and Social Council within a maximum period of three months for the Government and before the end of the current session for Parliament.

The Economic and Social Council receives an official copy of the laws, ordinances and decrees on their promulgation. It monitors [*suit*] the execution of the decisions of the Government relative to economic and social organization.

#### Article 108

*[Amended by Law No. 1/94 of 18 March 1994]*

[The following] are members of the Economic and Social Council:

- representatives of the trade-unions, the socio-professional associations or groups [*groupements*], elected by their associations or groups of origin;
- superior offices [*cadres*] of the State in the economic and social domain;
- representatives of the local collectivities designated by their peers.

The duration of the mandate of the members of the Economic and Social Council is of four years[,] renewable;

In case of death or of resignation of a member, the new member representing the concerned sector completes the mandate commenced.

#### Article 109

The Economic and Social Council meets each year of plain right in two ordinary sessions of fifteen days each. The first session opens the third Tuesday of February and the second, the first Tuesday of September.

The opening of each session is delayed to the next day if the day provided for is not [a] working [day].

The sittings of the Economic and Social Council are public.

#### Article 110

The President and the Vice President of the Economic and Social Council are elected within the Council by their peers at the opening sitting of the first session for a mandate of four years renewable.

No member of the Economic and Social Council may be prosecuted, investigated or judged for the opinions expressed by them during the sittings of the Council.

#### Article 111

*[Amended by Law No. 1/94 of 18 March 1994]*

The internal organization, the rules of functioning and of designation of the members of the Economic and Social Council are established by an organic law.

### **TITLE IX**

### **OF THE LOCAL COLLECTIVITIES**

#### Article 112

The local collectivities of the Republic are created by the law. They may only be modified or eliminated after the opinion of the interested councils and within the conditions established by the law.

They freely administer themselves through the councils elected within the conditions provided by the law, notably in that which concerns the competences and their resources.

#### Article 112a

*[Inserted by Law No. 1/94 of 18 March 1994]*

Local consultations, concerning specific problems not relevant to the domain of the law, may be organized on the initiative of either the elected Councils, or of the citizens interested, within the conditions established by the law.

Article 112b

*[Inserted by Law No. 1/94 of 18 March 1994]*

The conflicts of competence, between the local collectivities on the one hand, or between a local collectivity and the State on the other hand, are brought before the administrative jurisdictions, at the diligence of the authorities responsible or of the representative of the State.

The representative of the State sees to the respect for the national interests.

An organic law specifies the modalities of the application of this Title.

**TITLE X**

**OF THE INTERNATIONAL TREATIES AND AGREEMENTS**

Article 113

*[Amended by Law No. 1/94 of 18 March 1994]*

The President of the Republic negotiates the international treaties and agreements and ratifies them after the vote of a law of authorization by the Parliament and the verification of their constitutionality by the Constitutional Court.

The President of the Republic and the Presidents of the Parliament are informed of any negotiation leading to the conclusion of an international agreement not submitted to ratification.

Article 114

Peace treaties, commercial treaties, treaties relative to international organization, treaties that engage the finances of the State, those which modify the provisions of legislative nature, [and] those which are relative to the status [*état*] of persons may only be approved and ratified by virtue of a law.

No amendment is receivable on this occasion. Treaties take effect only after having been regularly ratified and published.

No cession, no exchange, [and] no addition of territory is valid without the prior consultation of the Gabonese people by way of referendum.

**TITLE XI**

**OF AGREEMENTS OF COOPERATION AND ASSOCIATION**

Article 115

The Gabonese Republic concludes with sovereignty agreements of cooperation or of association with other States. It accepts to create with them international organs [*organismes*] of common administration, of coordination and of free cooperation.

**TITLE XII**

**OF THE REVISION OF THE CONSTITUTION**

Article 116

*[Amended by Law No. 1/94 of 18 March 1994; No. 1/97 of 22 April 1997]*

The initiative of revision belongs concurrently to the President of the Republic, the Council of Ministers [being] heard, and to the members of the Parliament.

Any proposal of revision must be deposited with the Bureau of the National Assembly by at least one-third of the Deputies or with the Bureau of the Senate by at least one-third of the Senators.

Any bill or any proposal of revision of the Constitution as well as any amendment concerning it is submitted for [its] opinion to the Constitutional Court.



The revision is acquired either by way of referendum, or by [the] parliamentary way [voie]. When the parliamentary way is held [retenue], the bill or the proposal of revision must be voted respectively by the National Assembly and by the Senate in identical terms.

The adoption of any bill or of any proposal of revision of the Constitution by [the] parliamentary way requires the presence of at least two-thirds of the members of the Parliament meeting in Congress. The Presidency of the Congress is assured by the President of the National Assembly.

The Bureau of the Congress is that of the National Assembly.

A qualified majority of two-thirds of the suffrage expressed is required for the adoption of the bill or of the proposal of revision of the Constitution.

The revision of the Constitution may not be initiated or achieved, in case of the interim of the Presidency of the Republic, of recourse to the emergency powers [pouvoirs de crise] of Article 26 above, or [in case] of infringement of the territorial integrity, as well as during the period which separates the proclamation of the results of the presidential election and the debut of a new presidential mandate.

#### Article 117

The Republican form of the State, as well and the pluralist character of the democracy are intangible and may not be [made] the object of any revision.

### TITLE XIII

#### OF TRANSITORY PROVISIONS

#### Article 118

*[Amended by Law No. 1/94 of 18 March 1994; Law No. 18/95 of 29 September 1995; Law No. 1/97 of 22 April 1997]*

The provisions concerning the duration of the mandate of the President of the Republic enter into force from the first presidential election following the promulgation of this law [Law No. 1/97 of 22 April 1997].

The renewal of the Constitutional Court, [and] of the National Council of Communication intervenes at the normal termination of their mandate in course at the moment of the promulgation of this law [Law No. 1/97 of 22 April 1997].

The provisions concerning the duration of the mandate of the Bureaus of the Chambers of the Parliament, [and of] the duration of the sessions and the administrative and financial autonomy of the Chambers of Parliament enter into force on the promulgation of this law [Law No. 1/97 of 22 April 1997].

#### Article 119

*[Amended by Law No. 1/97 of 22 April 1997]*

This law [Law No. 1/97 of 22 April 1997] which abrogates all previous contrary provisions will be registered, [and] published in the *Journal officiel* [Official Gazette] and executed as law of the Republic.

#### Article 120

This Constitution will be published in the *Journal Officiel* [Official Gazette] and executed as law of the Republic.

Done in Libreville, the 26 March 1991

By the President of the Republic, Head of State

El Hadj Omar BONGO  
The Prime Minister, Head of Government  
Casimir OYE-Mba  
The Minister of State, Minister of Justice, Guardian of the Seals  
Michel ANCHOUEY

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Done in Libreville, 18 March 1994  
By the President of the Republic, Head of State  
El Hadj Omar BONGO  
The Prime Minister, Head of Government  
Casimir OYE MBA  
The Minister of Justice, Guardian of the Seals  
Dr. Serge MBA BEKALE

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Done in Libreville, 29 September 1995  
By the President of the Republic, Head of State  
El Hadj Omar BONGO  
The Prime Minister, Head of Government  
Dr. Paulin OBAME NGUEMA  
The Minister of the Interior and of Decentralization and of Mobile Security  
Louis, Gaston MAYILA  
The Minister delegated before the Minister of Justice, Guardian of the Seals  
Pierre-Claver ZENG EBOME  
The Minister of Communication, of Culture, of the Arts, of Popular Education,  
responsible for the Rights of Man  
Alexandre SAMBAT

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Done in Libreville, 22 April 1997  
By the President of the Republic, Head of State  
El Hadj Omar BONGO  
For the Prime Minister, Head of Government on mission,  
The Minister of State, Minister of Foreign Affairs and of Cooperation assuring the  
interim  
Casimir OYE MBA  
The Minister of State, Minister of Justice, Guardian of the Seals, Responsible for  
the Rights of Man  
Marcel Eloi RAHANDI CHAMBRIER

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