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Citations:

Bluebook 20th ed.
English translation of the French original text of the Constitution of 1963 890
(1963) Title I: The State and Sovereignty

ALWD 6th ed.

Chicago 7th ed.
, "Title I: The State and Sovereignty," Constitution of Togo, May 5, 1963 (1963):
890-890

McGill Guide 9th ed.
, "Title I: The State and Sovereignty" [1963] 890.

MLA 8th ed.
"Title I: The State and Sovereignty." Constitution of Togo, May 5, 1963, , 1963, p.
890-890. HeinOnline.

OSCOLA 4th ed.
, 'Title I: The State and Sovereignty' (1963) 890

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CONSTITUTION of TOGO¹

May 5, 1963

PREAMBLE

The Togolese people, independent and sovereign, places itself under the protection of God and solemnly proclaims its attachment to the principles of democracy and the rights of man as they are defined in the Universal Declaration of December 10, 1948.

Desirous of instituting a political regime which will exclude all ideas of personal power, it proclaims its intention to safeguard respect and guarantees for

- political liberties,
- trade union liberties,
- the rights and liberties of the human person, the family and local communities,
- philosophic and religious liberties,
- individual and collective property rights,
- economic and social rights.

The Togolese people,

Conscious of the intimate solidarity which binds it to the other peoples of Africa and desirous of preparing the way for African unity,

Decides that it will spare no effort to attain this end.

It affirms, moreover, its desire to co-operate in peace and friendship with all peoples who share its ideal of justice, liberty, equality, fraternity and human solidarity.

TITLE I

THE STATE AND SOVEREIGNTY

Art. 1. Togo, an independent and sovereign state, is a republic.

The Togolese Republic is indivisible, secular, democratic and social.

¹ *Constitution de la République Togolaise, 5 mai 1963.* Imprimerie Editogo, Lomé.
Supplied by the Ministry of Foreign Affairs. Translated by the Editor.

It shall ensure the equality of all citizens before the law, without distinction or origin, race, sex or religion.

It shall respect all beliefs.

The motto of the Togolese Republic is "Work, Liberty, Country."

Its principle is government of the people, by the people and for the people.

The flag of the Republic is composed of five horizontal stripes alternately green and yellow. In the upper left hand corner there is a white star on a red ground.

The official language of the Republic is French.

The national anthem is "*Terre de nos Aieux.*"

The State seal and the coat of arms of the Republic are as defined in law no. 62-10 of March 14, 1962.

Art. 2. National sovereignty belongs to the Togolese people who shall exercise it through its representatives.

No section of the people nor any individual may usurp the exercise of this right.

Suffrage may be direct or indirect. It shall always be universal, equal and secret.

All Togolese citizens of both sexes who have reached their majority and who enjoy civil and political rights may vote under the conditions to be determined by law.

Art. 3. Political parties and groups shall be instrumental in the expression of the suffrage. They shall be formed and shall exercise their activities freely within the framework of the laws and regulations. They must respect the principles of national sovereignty and democracy.

Art. 4. Any act of racial, ethnic or religious discrimination, as well as any regionalist propaganda which might threaten the internal security of the State, national unity or the integrity of the territory, shall be punished by law.

TITLE II

PUBLIC LIBERTIES AND THE HUMAN PERSON

Art. 5. The human person is sacred. The State is obliged to respect and protect it.

Art. 6. All Togolese are equal before the law without distinction of sex, family, race, language, beliefs or opinions.

Art. 7. The Togolese Republic recognizes and guarantees the inalienable and imprescriptible rights of man, both in respect of the individual and of the social formations where he exercises his personality.

Everyone has the right to the free development of his personality saving respect for the rights of others and the public order.

The freedom of the human person is inviolable. Noone may be arrested and detained except by order of the competent authority except in cases of flagrant and serious violation of an existing law.

Noone may be arrested nor found guilty except under a law in force before the act was committed. In all the states and at every stage of procedure, there shall exist the absolute right to a defense.

Art. 8. The domicile is inviolable.

Searches may be ordered only by a judge or other authorities appointed by law. Searches must be carried out at the times and according to the forms prescribed by law. Measures which threaten or diminish the inviolability of domicile may only be taken in order to meet a collective danger or to protect persons in danger of death. Such measures may also be taken in application of laws to protect the public order, fight the risk of an epidemic or protect youth in danger.

Art. 9. The secrecy of correspondence and of postal, telephonic and telegraphic communications is inviolable. This inviolability may be restricted only by law.

Art. 10. All citizens of the Republic have the right to move and settle freely over the whole territory of the Togolese Republic. This right may be limited only by law. Noone may be submitted to security measures except in the cases provided by law.

Art. 11. The right of property is guaranteed by the Constitution. It may be restricted only in cases of public utility, determined according to legal forms and subject to a fair and prior indemnity.

Art. 12. Everyone has the right freely to express and make known his opinions by speech, pen and image, subject to respect for the laws and regulations.

Art. 13. Freedom of association is guaranteed to all under the conditions stipulated by law.

Assemblies and groups whose purposes or activities would be illegal or contrary to the public order shall be prohibited.

Art. 14. Marriage and the family form the natural basis of society. They are placed under the protection of the State.

The nation shall ensure to the individual and to the family the conditions necessary to their development.

Art. 15. Parents have the natural right and duty to raise their children. They shall be supported in this task by the State and by public bodies. Protection of youth against exploitation and moral intellectual or physical abandonment is binding upon the State and public bodies.

Art. 16. Every child has the right to instruction and education.

The State and the public bodies shall create the prior conditions and the public institutions which will guarantee the education of children.

Public schools and religious and private schools shall be provided for the education of youth. Religious institutions and communities shall also be recognized as sources of education.

Religious and private schools may be opened with the authorization and under the control of the State.

Art. 17. Freedom of conscience and the free profession and practise of religion are guaranteed to all, subject to the public order. Religious institutions and communities have the right to develop without hindrance subject to respect for existing laws and regulations.

Art. 18. Work is a right and duty for all. Noone may be injured in his work because of his origins, beliefs or opinions.

Whoever works has the right to equitable remuneration which will ensure to him and his family an existence that accords with human dignity.

The right of workers to strike is recognized; it shall be exercised within the framework of the laws relating thereto. It may not under any circumstances threaten the liberty to work.

Workers may belong to a union and defend their rights by union activity.

All workers shall participate through their delegates in the determination of the conditions of work.

Special laws shall fix the conditions of assistance and protection which society shall provide for the workers.

Art. 19. Citizens have duties from which noone may absolve himself. These duties arise essentially out of national solidarity and respect for the laws.

The defense of the country and of the integrity of the territory of the Republic is the duty of each citizen.

Payment of taxes and contribution to public expenditure is the duty of all.

TITLE III

THE PRESIDENT OF THE REPUBLIC, THE VICE-PRESIDENT AND THE GOVERNMENT

Art. 20. The President of the Republic is the Head of State.

He shall embody the national unity and ensure the continuance of the State.

As guardian of the Constitution, he shall be the guarantor of national independence, of the integrity of the territory, of respect for treaties and international agreements.

As holder, together with the members of the government, of the executive power, he shall determine and conduct the policy of the nation.

He shall represent the State on all public occasions.

Art. 21. The President of the Republic shall be assisted by a Vice-President of the Republic.

The Vice-President of the Republic shall exercise the powers which devolve upon him, temporarily or permanently by delegation of the Head of State. He shall also receive a ministerial post.

Art. 22. The President and Vice-President of the Republic shall be elected for five years by universal direct suffrage. They shall be eligible once for reelection to either of these offices.

The elections shall be called by decree taken in the Council of Ministers. They shall take place on the same day as that fixed for the general elections.

Elections shall take place at least twenty days and at most fifty days before the expiration of the term of the President and Vice-President of the Republic and of the legislature in office.

An organic law shall fix the method of voting, conditions of eligibility, presentation of candidacies, voting procedure, counting and proclamation of the results.

Art. 23. The President of the Republic shall be inaugurated by the Supreme Court in accordance with the manner and ceremonial to be laid down in an organic law.

Before his entry into office, he shall take the following oath:

“I solemnly swear before God and the Togolese people who alone hold the national sovereignty, to respect the Constitution, to fulfil honorably, disinterestedly and loyally the high office entrusted to me, and to consecrate all my forces without respite to the defense and safeguarding of the high interests of the Nation.”

Art. 24. In the event that the Presidency of the Republic has been vacated or impeded in its functioning, the Vice-President shall exercise the functions of Head of State with the exception of those provided in Article 34 and 35. In case of definitive impediment, death or resignation of the President, the Vice-President shall exercise the functions of Head of State as described and limited above, until the election of a new President of the Republic. This election shall take place at least twenty and at most forty days after the President has terminated his functions.

Cases of definitive impediment shall be submitted for final attestation by the Supreme Court.

The President of the Republic shall address his resignation to the President of the Supreme Court, who shall notify the President of the National Assembly thereof.

The term of the new President shall expire on the date when that of the former President would have expired.

If the definitive impediment in the presidency occurs in the last year of the presidential term there shall be no election for a new President. The Vice-President shall then become Head of State. He shall be invested with all the powers of that office and shall take the oath in the forms and under the conditions prescribed by law.

Art. 25. The President of the Republic shall be the head of the Government. He shall choose and appoint the members of the Government, determine their powers and preside over the Council of Ministers. He shall cause records of the meetings of the Council to be kept.

The members of the Government shall be responsible to the President of the Republic who may terminate their functions.

Ministers may not be prosecuted nor brought before the courts in cases of common law crimes or misdemeanors committed outside the sphere of their functions without the written authorization of the President of the Republic given in the Council of Ministers.

Art. 26. The President of the Republic shall hold the regulatory power. He shall exercise it by decrees taken in the Council of Ministers.

Art. 27. The President of the Republic shall be the head of the administration and of the armed forces. He shall make all civil and military appointments of the state except those in respect of which another authority has been given the power of appointment.

Art. 28. The President of the Republic shall be responsible for national defence. He shall control the armed forces.

Art. 29. The President of the Republic shall accredit Ambassadors and Envoys Extraordinary to foreign powers. Ambassadors and Envoys Extraordinary of foreign powers shall be accredited to him.

Art. 30. The President of the Republic together with the members of the National Assembly, shall have the right to initiate legislation. He shall ensure promulgation of laws within fifteen days following their transmission to him by the President of the National Assembly.

Before the expiration of this time limit, he may ask the National Assembly for a second reading of the law for some of its articles. The second reading may not be refused. Voting upon the second reading shall be by a majority of the members of the National Assembly.

The President of the Republic may also ask the Supreme Court to rule on the constitutionality of a text passed by the Assembly.

Art. 31. The President of the Republic may, after official consultation with and advice from the Presidents of the National Assembly and of the Supreme Court, submit to referendum any text which seems to him to require direct consultation with the people.

When a bill is adopted by a referendum the President of the Republic shall promulgate it within the time limit provided in the preceding article.

Art. 32. The President of the Republic shall ensure the execution of the laws. He shall issue the regulations which are applicable to the whole territory of the Republic.

Art. 33. The President of the Republic shall communicate with the National Assembly either directly or by messages read by the President of the National Assembly. If the National Assembly is not in session it shall be specially convened for this purpose.

Art. 34. When the institutions of the Republic, the independence of the nation, the integrity of its territory or the execution of its international undertakings are threatened by a grave and present danger, the President of the Republic shall take the exceptional measures required by the circumstances after consultation with and advice from the Presidents of the National Assembly and the Supreme Court. He shall inform the nation by a message.

The National Assembly shall meet automatically to be informed of the measures taken and to consider those that should be taken. The duration of the measure taken by the President of the Republic shall be limited to the circumstances which give rise to them.

Art. 35. The President of the Republic shall have the right of pardon.

Art. 36. The President of the Republic may address messages to the nation.

Art. 37. The functions of the President of the Republic of the Vice President shall be incompatible with the exercise of any parliamentary mandate, any public employment and any professional activity.

TITLE IV

PARLIAMENT

Art. 38. Parliament shall be composed of a single assembly entitled the National Assembly. Its members shall bear the title of deputy to the National Assembly.

Art. 39. The National Assembly shall hold the legislative power. It alone shall pass the laws.

Art. 40. Deputies to the National Assembly shall be elected by universal direct suffrage for five years at the same time as the President and the Vice President of the Republic.

An organic law shall fix the number of members of the National Assembly, their remuneration, the conditions of their election, the rules of eligibility and ineligibility, the offices incompatible with membership and the method of voting.

A deputy who has been appointed Minister shall not receive his parliamentary emolument during his term of ministerial office.

A law shall also stipulate the conditions for elections to seats which have become vacant, pending the next general renewal of the Assembly.

Art. 41. No deputy may be prosecuted, sought, detained or tried as a result of the opinions or votes expressed by him in the exercise of his functions.

No deputy may, during Parliamentary sessions, be prosecuted or arrested for criminal or minor offenses without the authorization of the National Assembly except in *flagrante delicto*.

When the Assembly is not in session, no deputy may be arrested without the authorization of the Secretariat of the National Assembly except in *flagrante delicto*, cases of authorized prosecution or of final conviction.

The detention or prosecution of a deputy shall be suspended if the Assembly so requests.

Art. 42. Binding instructions on deputies shall be forbidden. The right to vote of deputies shall be personal. An organic law may, in exceptional circumstances, authorize the delegation of a vote but no one may be delegated more than one vote.

Art. 43. The National Assembly shall meet by right in ordinary session on the first Tuesday of May and the first Tuesday of October. The duration of these sessions may not exceed two months.

Art. 44. The National Assembly may be convened in extraordinary session to consider a limited agenda, either

- on the initiative of the President of the Republic, or
- if an absolute majority of its members address a written request to its President.

The duration of each extraordinary session may not exceed fifteen days.

The convening decree shall contain the agenda to be considered by the National Assembly. As soon as the agenda has been exhausted, the closure decree shall be pronounced.

Art. 45. Meetings of the National Assembly shall be public.

The account of the debates and parliamentary documents shall be published in the *Journal Officiel*.

The Assembly may sit in secret committee at the request of the President of the Republic or one third of its deputies.

Art. 46. The President of the Assembly shall be elected for the duration of the legislature. As an exception, however, in case of necessity voted by a two thirds majority of the Assembly, a new President may be elected.

Art. 47. The National Assembly shall draw up its rules of procedure which shall regulate the functioning of the National Assembly within the framework of this Constitution.

Art. 48. The Constitutional Chamber of the Supreme Court shall assure any claimant of the validity of the legislative elections.

It shall also rule as to conformity with the Constitution of the rules of procedure of the National Assembly.

TITLE V

RELATIONS BETWEEN THE GOVERNMENT AND PARLIAMENT

Art. 49. The President of the Republic and the deputies to the National Assembly alike shall have the right to initiate legislation.

Laws shall establish the regulations concerning:

- civil rights and the fundamental guarantees granted to citizens for the exercise of their public liberties; the obligations imposed by the national defense upon the persons and property of citizens;
- nationality, status and legal capacity of persons, marriage contracts, inheritance and gifts;
- the procedure whereby customs shall be determined and harmonized with the fundamental principles of the Constitution;
- determination of crimes and misdemeanors as well as the penalties applicable thereto, criminal procedure, amnesty, the creation of new juridical systems, and the status of magistrates;
- the basis, rate and method of collecting taxes of all sorts, the issuance of currency.

Laws shall also establish the regulations concerning:

- the electoral system for the local assemblies;
- the establishment of categories of public institutions;
- the fundamental guarantees granted to civil and military personnel employed by the State;
- the nationalization of enterprises and the transfer of property from the public to the private sector.

Laws shall determine the fundamental principles of:

- the general organization of national defense;
- the free administration of local communities, the extent of their jurisdiction and their resources;
- education;
- property rights, civil and commercial obligations;
- legislation pertaining to employment, unions and social security;
- the system of remuneration for agents of the State.

The finance laws shall determine the resources and obligations of the State under the conditions and with the reservations to be provided by an organic law. Government posts may be established or changed only by the finance laws.

Laws pertaining to national planning shall determine the objectives of the economic and social action of the State. The Plan shall be approved by law.

The provisions of this article may be developed in detail and amplified by an organic law.

The President of the Republic, moreover, may, for reasons of social, economic or financial importance, submit to a vote by the National Assembly any bills relating to matters other than those enumerated in this article without thereby incurring a derogation from the provisions of the second paragraph of Article 54.

Art. 50. The National Assembly shall pass the finance bill under the conditions to be stipulated by an organic law.

If the National Assembly has not acted within a time limit of fifty days after the bill has been filed, its provisions may be put into effect by ordinance, taking into account any amendment adopted by the National Assembly and accepted by the Government. If the Finance bill which draws up the resources and expenditures for a financial year has not been filed in time to be promulgated before the beginning of that year, the Government shall ask Parliament for emergency authority to collect the taxes, and shall, by decree, open the credits relating to the chapters of the bill which have been passed.

The time limit provided in this article shall be suspended when the National Assembly is not in session.

The Supreme Court shall assist the Government and the National Assembly in controlling the implementation of the finance laws.

Art. 51. Only the National Assembly may authorize the declaration of war.

Art. 52. The President of the Republic and the Council of Ministers, shall decree both a national emergency and martial law.

The National Assembly shall meet automatically if it is not in session.

Only the National Assembly may authorize prorogation of martial law beyond fifteen days.

Art. 53. Laws shall be transmitted, after their adoption by the National Assembly, without delay to the President of the Republic who shall promulgate them in accordance with the conditions stipulated in Article 30 above.

Art. 54. Matters other than those falling within the domain of law according to this Constitution shall be of a regulatory character.

Legislative texts concerning these matters may be modified by decree if the Supreme Court declares them to be of a regulatory character, as defined in the above paragraph.

Art. 55. The President of the Republic may ask the National Assembly, for a limited period and specific purposes, to authorize him to take by ordinance measures which normally fall within the domain of law. Such ordinances shall subsequently be submitted to ratification by the National Assembly.

Such ordinances shall be taken in the Council of Ministers and upon the advice of the Supreme Court. They shall enter into effect upon publication but shall become null and void if the bill for their ratification is not filed with parliament before the date set in the enabling act.

At the expiration of the time limit specified in the first paragraph of this article, ordinances may be modified only by law in matters which fall within the legislative domain.

Art. 56. Laws which this Constitution characterizes as organic laws shall be passed and amended by an absolute majority of the members of the National Assembly.

They may be promulgated only if the Supreme Court, to which they must be referred by the President of the Republic, has declared that they are in conformity with the Constitution. Article 54 shall not apply to organic laws.

Art. 57. The deputies and the President of the Republic alike shall have the right to initiate amendments.

Amendments of the Head of State may be presented by a member of the Government.

Parliamentary bills and amendments shall not be admissible when their adoption would result either in a diminution of public resources or the creation or increase of public expenditures, unless such bills or amendments are accompanied by proposals for compensatory receipts.

Art. 59. If it appears during the course of the legislative procedure that a bill or amendment does not fall within the domain of law, the Government may plead its inadmissibility.

In case of disagreement between the Government and the Assembly, the Supreme Court, at the request of either party, shall rule within eight days.

Art. 60. The Government may request that priority on the agenda of the National Assembly be given to a government or parliamentary bill or to a declaration of general policy and this request shall automatically be granted.

Art. 61. The President of the Republic, the Vice-President and the members of the Government may, if they so desire, take part in the debates of the National Assembly. They may be heard at any time by the National Assembly and its commissions. They may be assisted by Government commissioners.

Art. 62. The National Assembly shall have the following means of control over Government action:

– the written question and the oral question.

Representatives of the Government shall be obliged to reply. The questions and answers shall not be followed by any vote.

Art. 63. At the opening of the National Assembly, and each year at the beginning of the first ordinary session, the President of the Republic shall explain to the National Assembly the general policy of his Government. This explanation shall be followed by debates which shall not give rise to any vote.

Art. 64. The National Assembly may question the responsibility of the Government by passing a motion of censure. Such a motion shall be admissible only if it is signed by at least one third of the members of the National Assembly. A motion of censure may not be filed during the first two years of the legislature.

The vote may only take place seventy two hours after the filing of the motion. Only the votes in favor of the motion of censure shall be counted.

The motion may be adopted only by a majority of the members of the Assembly.

If a motion of censure is rejected, its signatories may not present another during the course of the same session.

If the motion of censure is approved, the President of the Republic may either modify the composition of his Government, change it entirely, or he may dissolve the National Assembly by decree taken in the Council of Ministers.

Art. 65. If the National Assembly is dissolved, general elections shall take place in accordance with the stipulations of Article 40. The elections for the President and Vice-President of the Government shall take place at the same time in accordance with the provisions of Article 22.

These elections must take place not less than thirty and not more than sixty days after the publication of the decree of dissolution.

TITLE VI

TREATIES AND INTERNATIONAL AGREEMENTS

Art. 66. The President of the Republic shall negotiate and ratify treaties and international agreements.

Art. 67. Peace treaties, commercial treaties, treaties or agreements relative to international organization, those that imply a commitment for the finances of the State, those that modify provisions of a legislative nature, those relative to the status of persons, those that call for the cession, exchange or addition of territory may be ratified or approved only by a law. The same shall apply to the treaties and international agreements covered by the preceding article.

They shall go into effect only after ratification.

No cession, no exchange and no addition of territory shall be valid without the consent of the populations concerned.

Art. 68. If the Supreme Court, to which the matter has been referred by the President of the Republic or by the President of the National Assembly, declares that an international commitment contains a clause contrary to the Constitution, the authorization to ratify or approve it may only take place after amendment of the Constitution.

Art. 69. Treaties and agreements duly ratified or approved shall, upon their publication, have an authority superior to that of the laws, subject, for each agreement or treaty, to its application by the other party.

TITLE VII
THE SUPREME COURT

Art. 70. The Supreme Court shall include four chambers.

- the Constitutional Chamber,
- the Judicial Chamber,
- the Administrative Chamber,
- the Chamber of Accounts.

The President of the Supreme Court, who shall also preside over the Constitutional Chamber, shall be appointed for five years by decree taken in the Council of Ministers after consultation with and advice of the secretariat of the National Assembly.

He shall have permanent tenure.

The Supreme Court shall rule on the constitutionality of laws and international engagements and on conflicts of jurisdiction between the Government and Parliament. It shall judge any excesses of power by the administrative authorities.

Art. 71. The Supreme Court shall supervise the regularity of the elections of the President and Vice-President of the Republic. It shall examine any complaints and proclaim the results of the voting.

Art. 72. The Supreme Court shall rule in cases of dispute concerning the elections of deputies to the National Assembly.

Art. 73. The Supreme Court shall supervise the regularity of referendum procedures and shall proclaim their results.

Art. 74. Organic laws before their promulgation, and the rules of procedure of the National Assembly before their entry into force, must be submitted to the Supreme Court which shall rule as to their conformity with the Constitution.

Before their promulgation, other laws may be referred for the same purpose to the Supreme Court, either by the President of the Republic or by the President of the National Assembly.

In the cases provided in this article, the Supreme Court must rule within a period of one month. This time limit may be reduced to eight days at the request of the Government.

In all these cases, referral to the Supreme Court shall suspend the time limits for promulgation.

Art. 75. The Supreme Court shall issue opinions and render decisions.

There shall be no recourse from the decisions of the Supreme Court. They shall be binding on the Government, on Parliament and on the judicial authority.

A provision which has been declared unconstitutional may neither be promulgated nor put into force.

Art. 76. An organic law shall fix the number and the status of the members of the Supreme Court. It shall determine the powers of the Supreme Court other than those described above, its rules of organization, operation and procedure.

TITLE VIII

THE JUDICIAL AUTHORITY

Art. 77. Justice shall be rendered over the territory of the Republic in the name of the Togolese people.

Judges, in the exercise of their functions, shall be subject to no authority other than the law.

The President of the Republic shall be the guarantor of the independence of the judicial authority.

He shall be assisted by the High Council of the Judiciary.

Art. 78. The High Council of the Judiciary shall be presided over by the President of the Republic.

The Minister of Justice shall automatically be the Vice-President.

The composition, power, organization and procedure of the High Council of the Judiciary shall be established by an organic law.

Art. 79. Magistrates shall be appointed by the President of the Republic on the proposal of the Minister of Justice, and with the advice of the High Council of the Judiciary. They shall have permanent tenure.

The High Council of the Judiciary shall be the disciplinary jurisdiction for magistrates. For that purpose it shall be presided over by the President of the Judicial chamber of the Supreme Court.

An organic law shall provide for the status of magistrates.

Art. 80. The High Council of the Judiciary shall study cases of pardon and shall transmit them to the President of the Republic with its opinion.

Art. 81. No one may be arbitrarily detained. The judicial authority, guardian of individual liberty, shall ensure respect for this principle under the conditions provided by law.

TITLE IX

THE HIGH COURT OF JUSTICE

Art. 82. A High Court of Justice shall be instituted.

It shall be composed of members elected by the National Assembly from its midst at the beginning of each legislature. It shall be presided over by a judge.

An organic law shall fix the composition of a High Court, its rules of operation and the procedure to be followed before it.

Art. 83. The President of the Republic shall not be held accountable for actions performed in the exercise of his office except in case of high treason. He may be indicted only by the National Assembly voting in open ballot by a majority of two thirds of its members. He shall be tried by the High Court of Justice.

The Vice-President of the Republic and the members of the Government shall be criminally liable for actions performed in the exercise of their office and deemed to be crimes or misdemeanors at the time they were committed. The procedure defined above shall be applicable to them and to their accomplices. The same shall apply in cases of a conspiracy against the security of the State. In the cases provided for by the present paragraph the High Court shall be bound by the definition of crimes and misdemeanors as well as by the determination of penalties as they are established in the criminal laws in force when the acts are committed.

TITLE X

TERRITORIAL UNITS

Art. 84. The Togolese Republic, one and indivisible, recognizes the existence of territorial units.

The territorial units shall be created by law.

A law shall determine the fundamental principles of the free administration, under the control of the state, of the territorial units, their powers and their resources.

TITLE XI

AMENDMENT

Art. 85. The President of the Republic and the members of the National Assembly alike shall have the right to initiate amendments of the Constitution.

Bills of amendment adopted by the National Assembly shall enter into force only they have been approved by referendum. However, a bill of amendment shall not presented for a referendum if the President of the Republic decides to submit it only to the National Assembly; in such a case, the amendment shall not be approved unless it receives a majority of two thirds of the members of the National Assembly.

Finally, the President of the Republic may, if he considers it absolutely necessary, following consultation with the National Assembly, submit a bill of amendment of the constitution directly to popular referendum. In this case the bill must first be submitted to the Supreme Court for its opinion.

No amendment procedure may be undertaken or pursued if it threatens the integrity of the territory.

The republican form of the state may not be the subject of amendment.

TITLE XII

TRANSITIONAL PROVISIONS

Art. 86. The ordinances and measures taken by the provisional Government of the Togolese Republic since January 17, 1963 shall be validated by this Constitution, in particular those relating to the organization of the constitutional referendum, the election of the President of the Republic, of the Vice-President of the Republic and of the deputies to the National Assembly.

The Provisional Government shall remain in office until official proclamation has been made of the results of the presidential election.

Art. 87. The President and the Vice-President of the Republic shall take office immediately upon the official proclamation of the results of the presidential election, and as soon as the President of the Republic has taken the oath provided in Article 23.

The new President of the Republic shall promulgate the constitution within twenty four hours following the official proclamation of the results of the constitutional referendum.

Art. 88. The legislative measures necessary to the establishment of the institutions and, pending this establishment, to the functioning of the governmental authorities, shall be taken by ordinance by the President of the Republic in the Council of Ministers.

These ordinances shall have the force of an organic or of an ordinary law as the case may be, and shall be executed as such.

The legislation applicable in Togo at the date of the entry into force of this Constitution shall remain in effect in so far as it is not contrary to the provisions of this Constitution.

Art. 89. This law shall be executed as the Constitution of the Togolese Republic.