

# **Congo (Republic of the)'s Constitution of 2015**

## **Table of contents**

# Preamble

Options for writing constitution  
Preamble

Source of constitutional authority

The Congolese People,

Conscious of the necessity to preserve the peace and the stability, the unitary form and the secular and indivisible character of the State, the national unity and social cohesion;

Reference to fraternity/solidarity

Concerned about building a Republic founded on the principles of equality, of fraternity, of sharing and of solidarity on the one hand, and on the other hand of assuring the development [épanouissement] of each and of all within the framework of a Republic respectful of the intangible rights of the human person;

Interpellated by the pressing need to conciliate the universal values of democracy and the political, social and cultural national realities;

Affirm their attachment to the virtues of dialogue as [a] means of peaceful regulation of disagreements within the framework of an appeased Republic;

Solemnly reaffirm, its permanent right of inalienable sovereignty over all the national wealth and the natural resources as fundamental elements of its development;

International law  
International human rights treaties

Declare [as an] integral part of this Constitution, the fundamental principles proclaimed and guaranteed by:

International organizations

- the United Nations Charter of 24 October 1945;
- the Universal Declaration of the Rights of Man of 10 December 1948;
- the African Charter of the Rights of Man and of Peoples of 26 June 1981;
- the Charter of the National Unity and the Charter of Rights and Freedoms of 29 May 1991;
- all the pertinent national and international texts duly ratified, relative to human rights;

Reference to country's history

Condemn the coup d'état, the tyrannical exercise of power and the usage of political violence, under all its forms, as means of accession to power or to its conservation.

Source of constitutional authority

Ordain and establish for the Congo this Constitution that enunciates the fundamental principles of the Republic, defines the rights and the duties of the citizens and establishes the forms of organization and the rules of functioning of the State.

## TITLE I: OF THE STATE AND OF SOVEREIGNTY

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### Article 1

Separation of church and state  
Type of government envisioned

The Republic of the Congo is a State of Law, sovereign, unitary and indivisible, decentralized, secular, and democratic.

Constitutional capital

Its capital is Brazzaville.

## Article 2

The principle  
of the  
public is:  
government  
the  
people, by  
the people  
is for the  
people.

itional flag

## Article 3

The national emblem is the tricolor flag, [of] green, yellow, [and] red.

Of rectangular form, it is composed of two right-angled triangles of green and red color, separated by a yellow band in diagonal, the green being on the side of the pole [hampe].

The law specifies the dimensions, the tones of the colors and the other details of the flag.

## Article 4

itional anthem

The national anthem is "La Congolaise [the Congolese]".

itional motto

The motto of the Republic is "Unité, Travail, Progrès [Unity, Work, Progress]".

The seal of the State and the coat-of-arms of the Republic are determined by the law.

ficial or national languages

The official language is French.

ficial or national languages

The national vehicular languages [langues véhiculaires/lingua franca] are Lingala and Kituba.

ferenda  
iim of universal suffrage

## Article 5

The national sovereignty belongs to the people who exercise it by means of universal suffrage, by their elected representatives or by way of referendum. No fraction of the people one fraction of the people, no body of the State or no individual may arrogate its exercise.

## Article 6

cret ballot  
iim of universal suffrage

Suffrage is universal, direct or indirect, free, equal and secret.

strictions on voting

All Congolese being already eighteen (18) years of age and enjoying their civil and political rights are electors within the conditions established by the law.

## Article 7

The Republic of Congo consecrates [consacre] political pluralism.

# TITLE II: OF THE FUNDAMENTAL RIGHTS AND FREEDOM

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## SUB-TITLE I: OF THE RIGHTS AND FREEDOMS

ght to life

## Article 8

The human person is sacred and has the right to life.

The State has the obligation to respect it and to protect it.

Each citizen has the right to the full development [épanouissement] of his person within respect for the rights of others, of the public order, of ethics [morales] and of

morals [bonne mœurs].

The penalty of death is abolished.

## Article 9

The freedom of the human person is inviolable. No one may be arbitrarily accused, arrested or detained.

Any accused is presumed innocent until his culpability has been established following a just and equitable process guaranteeing the rights of defense.

The rights of the victim are equally guaranteed.

## Article 10

Save in the case of loss or of forfeiture of nationality, no Congolese citizen may be extradited, or delivered to a foreign power or organization, for whatever motive that may be.

The State has the duty to provide assistance to all Congolese citizens prosecuted before a foreign or international jurisdiction.

## Article 11

- Equality regardless of creed or belief
- Equality regardless of social status
- Equality regardless of political party
- Equality regardless of parentage
- Equality regardless of religion

Prohibition of capital punishment

Protection of victim's rights

Protection from unjustified restraint

Right to counsel  
Right to fair trial  
Presumption of innocence in trials

Extradition procedure

Language in native language of accused

Prohibition of cruel treatment  
Prohibition of torture

General guarantee of equality

arrested persons are deprived of the right of their rest and of their rights in a language that they comprehend.

acts of torture, all cruel, inhuman or degrading treatments are prohibited.

Every judicial officer, guardian of the individual freedoms, ensures the respect for this principle within the conditions established by the law.

## Article 12

War crimes, crimes against humanity, [and] the crime of genocide, are punished within the conditions determined by the law. They are not prescriptible.

## Article 13

Whoever propagates or incites ethnic hatred, to the detriment, to violence or to armed conflict, constitutes a crime punished by the law.

## Article 14

Every individual,

any agent of the State, any agent of the local collectivities, any public authority who would be rendered culpable [se render coupable] of acts of torture or of cruel, inhuman or degrading treatment, either on his own initiative, or under instructions, is punished according to the law.

## Article 15

All Congolese citizens are equal before the law and have right to the protection of the State.

None may be favored or disadvantaged by virtue of their family origin, ethnic [origin], of their social condition, of their political, religious, philosophical, or other convictions.



## Article 16

The law guarantees and assures the promotion and the protection of the rights of the autochthonous Peoples.

## Article 17

The woman has the same rights as the man.

The law guarantees parity and assures the promotion as well as the representativeness of women in all political, elective and administrative functions.

## Article 18

Any citizen has the right, in any place, to the recognition of his juridical personality.

## Article 19

Congolese citizenship is guaranteed by the law. Any Congolese has the right to change nationality or to acquire a second [one].

## Article 20

The domicile is inviolable.

Search may only be ordered within the forms and the conditions specified by the law.

## Article 21

The right of asylum is granted to foreign nationals [ressortissants] within the conditions determined by the law.

## Article 22

Any citizen has the right to circulate freely on all of the national territory.

He has the right to freely exit the national territory and to return to it, except of this freedom is made the object of restriction by [the] judicial or administrative way [voie].

## Article 23

The rights of property and of succession are guaranteed.

No one may be deprived of their property except for cause of public utility, [and] subject [moyennant] to a just and prior indemnification, within the conditions specified by the law.

## Article 24

The freedoms of belief and of conscience are guaranteed.

equality regardless of gender

regulation of evidence collection  
right to privacy

protection of stateless persons

freedom of movement  
restrictions on entry or exit

right to own property

right to transfer property

protection from expropriation

freedom of religion  
freedom of opinion/thought/conscience

ibited.

Any manipulation, any forced recruitment [embrigadement] of conscience, any constraints [sujetions] of any nature imposed by any religious, philosophical, political and sectarian fanaticism are prohibited and punished by the law.

Freedom of expression  
Right to information  
Freedom of press

## Article 25

Any citizen has the right to express and to freely diffuse his opinion by words [parole], writing, images or by any other means of communication.

The freedom of information and communication is guaranteed. It is exercised within respect for the law.

Censorship is prohibited.

The access to the sources of information is free and protected within the conditions determined by the law.

Right to privacy  
Telecommunications

## Article 26

The secrecy of correspondence, of telecommunications or of any other form of communication may not be violated, except in the cases and the conditions provided for by the law.

Freedom of assembly  
Freedom of association

## Article 27

The State recognizes and guarantees, within the conditions established by law, the freedoms of association, of assembly, of procession and of manifestation.

Right to culture

## Article 28

The right to culture and to the respect for the cultural identity of each citizen is guaranteed.

The exercise of this right must not cause prejudice [porter préjudice], to the public order, or to others and to the national unity.

## Article 29

The State assures the fulfillment of youth. Under this title, it guarantees notably:

- the right to education [education] and the equal access to education [enseignement] and to training [formation];
- obligatory school attendance [scolarité] until the age of sixteen (16) years.

Mandatory education

Right to work

## Article 30

The State recognizes to all citizens the right to work and creates the conditions which render its enjoyment effective.

State support for the elderly  
State support for the disabled

## Article 31

The aged persons and persons living with handicap have the right to measures of protection in relation to their physical, moral or other needs, in view of their full development [épanouissement] within the conditions determined by the law.

The State has the duty to promote the presence of the person living with [an] handicap within the national and local institutions and administrations.

right to join trade unions  
restrictions on the armed forces  
right to strike

## Article 32

With the exception of the Magistrates and of the agents of the public force, the syndical freedoms and the right to strike within the conditions established by the law.

prohibition of slavery

## Article 33

No one may be compelled [astreint] to forced labor, except in the case of a penalty deprivative of liberty pronounced by a jurisdiction legally established.

No one may be submitted to slavery.

right to rest and leisure

## Article 34

Every person has the right to rest and to leisure, notably to a limitation of the duration of work and to periodic vacations [congés] as well as to the remuneration of the holidays within the conditions established by the law.

reference to art  
provisions for intellectual property

## Article 35

Every citizen has the right to the protection of moral and material interests deriving from any scientific, literary or artistic work of which he is the author.

reference to science

regulation of evidence collection

The sequestration, the seizure, the confiscation, the interdiction of all or [a] part of any publication, of any recording or of other means of information or of communication may only be done by virtue of a decision of justice.

right to health care

## Article 36

The State is the guarantor of the public health.

The State guarantees the right to create private socio-sanitary establishments [établissements socio-sanitaires] within the conditions established by the law.

## Article 37

The State has the obligation to assist the family in its mission as guardian of the morality and of the values compatible with the republican order.

rights of children

The rights of the mother and of the child are guaranteed.

rights of children

## Article 38

right to found a family  
right to marry

- Rights of children
- State support for children

marriage and  
family are under  
the protection of  
the law.

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## Article 39

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family, of society and of the State, to measures of protection that their condition requires.

## Article 40

The State has the obligation to protect children and adolescents against economical or social exploitation.

Work by children of less than sixteen (16) years is prohibited.

## Article 41

Every citizen has the right to a healthy, satisfying and durable environment and has the duty of defending it.

The State sees to the protection and the conservation of the environment.

## Article 42

The conditions of storage, of handling, of incineration and of disposal of toxic wastes, pollutants or radioactive [materials] originating from factories and other industrial or artisan sites installed on the national territory, are established by the law.

All pollution or destruction resulting from an economical activity gives rise to compensation.

The law determines the nature of the compensatory measures and the modalities of their execution.

## Article 43

The transit, the importation, the storage, landfill, [and] dumping in the continental waters and the maritime spaces under national jurisdiction, the expanding in the airspace of toxic wastes, pollutants, radioactive [matter] or of any other dangerous product, originating or not from abroad, constitute crimes punished by the law.

## Article 44

Any act, any agreement, any convention, any administrative arrangement or any other act, which has as [a] consequence to deprive the Nation of all or part of its own means of existence deriving [tirés] from its natural resources or from its wealth, is considered as an crime of pillage and punished by the law.

## Article 45

The acts referred to [visés] in the preceding Article, as well as attempts of them, whatever the modalities may be, if they are the act of a constituted authority, are, accordingly to the case, punished as a crime of pillage or as [an] act of breach of duty [forfaiture].

## Article 46

Every citizen has the right to present requests to the appropriate organs of the State.

## **Article 47**

Every citizen who suffers [subit] a prejudice by an act of the administration has the right to take action [agir] in justice, within the forms determined by the law.

## Article 48

Every person has the right, within the respect for the law, to engage in activity [entreprendre] in the sectors of his choice.

## Article 49

Any foreigners regularly established on the national territory benefits from the same rights and freedoms as nationals, within the conditions determined by the treaties and the laws, under reserve of reciprocity.

## SUB-TITLE II: OF THE DUTIES

## Article 50

Every citizen has the duty to comply with the Constitution, to the laws and regulations of the Republic and of fulfilling [s'acquitter] their obligations towards the State and society.

## Article 51

Every citizen has the duty of respecting the rights and freedoms of the other citizens and of safeguarding the security and the public order.

They work [ŷuvre] for the promotion of tolerance and of dialogue in relations with others.

They have the obligation of preserving the national interest, the social order, the peace and the national coherence.

Every act or every manifestation of an ethnic, racist or xenophobic character is punished by the law.

## Article 52

Every foreigner regularly established in the territory of the Republic of Congo is subject to the obligations enounced in Articles 50 and 51.

## Article 53

The assets of the State are sacred.

The assets of the public domain are inalienable, non-transferable, imprescriptible and cannot be seized. Every citizen must respect them and protect them.

The law establishes the conditions for the alienation of public assets, in the general interest.

## Article 54

Any act of sabotage, of vandalism or of embezzlement [dilapidation] of the public



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## Article 55

Every citizen, elected or appointed to a high public function, is required to declare his patrimony when taking his functions and at the cessation of them, in accordance with the law.

The law determines the functions subject to the obligation indicated above as well as the modalities of [the] declaration of patrimony.

## Article 56

Every citizen elected or appointed to a public function has the duty to exercise it without discrimination.

# TITLE III: OF THE POLITICAL PARTIES AND OF THE STATUS OF THE OPPOSITION

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## Article 57

The political party is an association endowed with moral personality which assembles citizens for the peaceful acquisition and administration [gestion] of power around a project of society dictated by the concern [souci] to realize the general interest.

## Article 58

The political parties are created freely around an ideal of peace, of national unity and of socio-economic development. They enjoy juridical [morale] personality.

The affiliation with a political party is free.

None may be the object of discriminatory measures by virtue of their affiliation with a political party or by the fact that they do not affiliate with any political formation.

It is prohibited to the political parties to identify themselves with a department, with a commune, with a district, with an urban or rural community, with a religion, with an ethnic group [ethnie] or with a clan.

The magistrates and the agents of the public force may not affiliate with political parties.

## Article 59

The political parties benefit from the financial participation of the State.

## Article 60

It is prohibited to the political parties to receive any form of participation [concoeurs]

of a nature that infringes the national independence and sovereignty.

## Article 61

The political parties must, to be recognized, conform to the following principals:

- the respect, the safeguarding and the consolidation of the national unity;
- the protection and the promotion of the fundamental rights of the human person;
- the pursuit of the satisfaction of the general interest of the Congolese people;
- the promotion of a State of law founded on the respect for and the defense of democracy, of the individual and collective freedoms;
- the defense of the integrity of the territory and of the national sovereignty;
- the proscription of intolerance, of ethnicism, of sectarianism and of the recourse to violence in all its forms;
- the respect of the republican, secular and indivisible character of the State.

## Article 62

The other conditions of existence of the political parties as well as the modalities of their financing are determined by an organic law.

## Article 63

The political opposition is recognized in the Republic of Congo.

It may not undergo limits, regarding its existence and its democratic activities, except for those imposed to all the political parties by this Constitution and the law.

The law determines the status [statut] of the political opposition.

# TITLE IV: OF THE EXECUTIVE POWER

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## SUB-TITLE I: OF THE PRESIDENT OF THE REPUBLIC

## Article 64

- Head of state term length
- Head of state term limits

State.

## Article 65

The President of the Republic is elected for a mandate of five (5) years renewable two (2) times.

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Constitutional court powers

The President of the Republic remains in [his] function until the end of his mandate which, excluding [a] case of force majeure recognized and declared by the Constitutional Court, must coincide with the effective taking of [his] function of his elected successor.

Eligibility for head of state

## Article 66

No one may be a candidate for the functions of President of the Republic if:

- he is not of Congolese nationality of origin;
- he does not enjoy his civil and political rights;
- he is not of [a] good morality;
- he does not attest to a professional experience of eight (8) years at least;
- he is not aged thirty (30) years;
- if he does not enjoy a state of physical and mental well-being duly declared by a college of three sworn doctors, designated by the Constitutional Court.

Minimum age of head of state

## Article 67

Method of state selection

The President of the Republic is elected by universal direct suffrage, by uninominal ballot, by the absolute majority of the suffrage expressed. If this is not obtained in the first round of the ballot, it proceeds, twenty-one (21) days after the proclamation of the results by the Constitutional Court, to a second round.

Only the two candidates having obtained the greater number of [the] suffrage expressed in the first round[,] may present themselves in the second round.

The candidate having received the majority of the suffrage expressed[,] is declared elected in the second round.

Principle of universal suffrage

## Article 68

The electoral body is convoked by decree [taken] in the Council of Ministers.

Scheduling of elections

## Article 69

The first round of the ballot takes place thirty (30) days at least, and forty (40) days at most, before the expiration of the mandate of the President in office [exercice].

Constitutional court powers

## Article 70

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

In the case of death or of definitive incapacity of one of candidates still in the running [restés en lice] for the second round, the Constitutional Court declares to proceed again to the whole [ensemble] of the electoral operations.

In the cases specified [visés] in paragraphs 1 and 2 above, the Constitutional Court

referred to [the matter] either by the President of the Republic, or by the President of one or the other Chamber of Parliament, or by interested [person], can suspend the time periods specified in Article 69. The ballot must take place within ninety (90) days counting from the date of the decision of the Constitutional Court. If the application of these provisions of this paragraph have the effect of postponing the presidential election beyond the date of expiration of the mandate of the President

of the Republic in office [exercice], he remains in [his] function until the taking of the oath by his elected successor.

In the case of withdrawal [désistement] of one of the two candidates qualified for the second round, the election continues with the candidate remaining in the running.

## **Article 71**

The law establishes the conditions and the procedure of eligibility, of presentation of the candidatures, of development of the ballot, of counting of the votes [dépouillement] and of proclamation of the results of the election of the President of the Republic.

It equally specifies the provisions required for the elections to be free, transparent, just and regular.

## **Article 72**

If no objection [contestation] has been raised in the time period of five (5) days following the proclamation of the provisional results of the election of the President of the Republic and if the Constitutional Court, referred to [the matter] of office, deems [estime] that the election is not tainted with any irregularity of a nature to cause the annulment of the ballot, it proclaims the definitive results of it within the fifteen (15) days following its referral [to the matter].

In case of dispute [contestation], the Constitutional Court decides within a time period of fifteen (15) days counting from its referral [to the matter] and proclaims the definitive results.

## **Article 73**

In the case of annulment of the election by the Constitutional Court, new elections are organized within the time periods of forty-five (45) to ninety (90) days counting from the notification of the decision of the Constitutional Court to the President of the Republic in [his] functions. In this case, the President of the Republic in office [exercice] remains in [his] function until the taking of the oath by the new elected President of the Republic.

## **Article 74**

In the case of death or definitive incapacity of the elected President of the Republic before entering into [his] function, it proceeds to new elections within the time period of forty-five (45) to ninety (90) days counting from the notification to the President of the Republic in [his] functions of the decision of the Constitutional Court stating the death or definitive incapacity of the elected President of the Republic.

The President of the Republic in office remains in [his] function until the taking of the oath by the new elected President of the Republic.

## **Article 75**

Constitutional court powers

Method of state replacement

Campaign financing



The candidates to the election of President of the Republic having obtained at least ten percent (10%) of the suffrage expressed have the right to the reimbursement of the costs and expenses of the campaign.

The law establishes the authorized ceiling for the reimbursement of the costs and expenses of the campaign

## **Article 76**

The mandate of the President of the Republic debuts on the day of his taking of the oath and ends at the expiration of the fifth (5th) year following the debut of him.

The taking of the oath of the elected President of the Republic intervenes twenty days (20) at the latest after the proclamation of the definitive results of the election by the Constitutional Court.

## **Article 77**

At the moment of [lors] entering into [his] function, the President of the Republic takes the following oath:

- "Before the Nation and the Congolese People, I: (name of the elected), President of the Republic, solemnly swear:
- to respect and to have respected the Constitution, and to defend the Nation and the republican form of the State;
- to loyally fulfill the high functions that the Nation and the people have confided in me;
- to guarantee peace and justice to all;
- to preserve the national unity, the integrity of the national territory, [and] the national sovereignty and independence."

The oath is received by the Constitutional Court, in public and solemn audience, in the presence of the National Assembly, of the Senate and of the Supreme Court.

## **Article 78**

In the case of vacancy of the function of Presidency of the Republic, by death or any other cause of definitive incapacity, the functions of President of the Republic, with the exception of the attributions mentioned in Articles 82, 83, 86, 87, 88 paragraph 2, 89, 91, 92, 138, 162 and 240, are provisionally exercised by the President of the Senate; in case of incapacity of the President of the Senate, they are assured by the President of the National Assembly, and in the case of incapacity of both, by the Prime Minister.

The vacancy is established and declared by the Constitutional Court, referred to [the matter] by the Prime Minister.

If within the twenty-four hours following the vacancy, the Prime Minister has not referred [the matter] to the Constitutional Court, this refers itself ex officio, determines [constate] and declares the vacancy.

In both cases, the Constitutional Court designates the President of the Senate or the President of the National Assembly, and in case of incapacity of these, the Prime Minister, President of the Republic by interim.

The President of the Senate, the President of the National Assembly or the Prime Minister assuring the interim of the function of President of the Republic, may not be [a] candidate to the presidential election.

## **Article 79**

It shall abide by constitution

When entering into [his] function, the President of the Republic by interim takes the oath specified in Article 77. The interim may not exceed ninety (90) days.

The election of the new President of the Republic takes place, excluding [a] case of force majeure duly declared [constatée] by the Constitutional Court, forty-five (45) days at least and ninety (90) days at most following the opening of the vacancy.

## Article 80

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

The mandate of President of the Republic is equally incompatible with any responsibility within a political party.

## Article 81

During the exercise of his functions, the President of the Republic cannot[,] by themselves or by [an] intermediaries, purchase or lease assets belonging to the domain of the State and of the local collectivities.

He cannot take part in the public markets or the adjudications within the administrations or the institutions in which the State has interests.

## Article 82

The President of the Republic receives [perçoit] a compensation of which the amount [montant] is determined by regulatory the way [voie]. He occupies an official residence.

## Article 83

The President of the Republic appoints the Prime Minister and terminates his functions.

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

The President of the Republic establishes by decree the attributions of the members of the Government.

## Article 84

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

## Article 85

The President of the Republic promulgates the laws within the fifteen (15) days following the transmission by the National Assembly to the Government.

This time period is reduced to five (5) days in the case of urgency declared by the two (2) Chambers of the Parliament.

The President of the Republic can, before the expiration of this time period, demand of one or the other Chamber of the Parliament a second deliberation of the law or of certain of its Articles. This second deliberation cannot be refused.

If the Parliament is at the end of [its] session, this second deliberation takes place, of

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ad of government selection

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The vote, for this second deliberation, is acquired with the majority of two-thirds (2/3) of the members composing the National Assembly and the Senate meeting in Congress.

If, after this last vote, the President of the Republic refuses to promulgate the law, the Constitutional Court, referred to [the matter] by the President of the Republic or by the President of one or the other Chamber of the Parliament, proceeds to a control of the conformity of the law. If the Constitutional Court declares the law conforming to the Constitution, the President of the Republic promulgates it.

## Article 86

The President of the Republic alone has the initiative of the referenda.

## Article 87

The President of the Republic can submit to referendum, after [the] opinion of conformity of the Constitutional Court, any bill of law when he judges it necessary.

In the case of an opinion of non-conformity, it may not proceed to the referendum.

When the referendum has concluded with the adoption of the bill, the law is promulgated within the fifteen (15) days following the proclamation of the results of it.

## Article 88

- Power to pardon

Constitutional interpretation  
Constitutionality of legislation

Referenda

Referenda

Selection of active-duty commanders

Foreign affairs representative  
Head of state powers

International organizations

Signature of commander in chief  
Advisory bodies to the head of state

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Ministers.

## **Article 89**

The President of the Republic appoints the ambassadors and the extraordinary envoys to foreign powers and international organizations.

The foreign ambassadors and extraordinary envoys are accredited to him.

## **Article 90**

The President of the Republic is the Supreme Chief of the Armies. He presides over the Committee of Defense as well as the superior organs of orientation, of follow-up [suivi] and of strategic decision in matters of defense and of security.

## **Article 91**

The President of the Republic presides over the Superior Council of the Magistrature.

## **Article 92**

The President of the Republic exercises the right of pardon.

Emergency provisions  
Extraordinary legislative sessions

Constitutional law

## Article 93

When the institutions of the Republic, the independence of the Nation, the integrity of the national territory or the execution of the international engagements are menaced in a grave and imminent manner[,] and that the regular functioning of the public powers is interrupted, the President of the Republic takes the measures required by the circumstances, after consultation of the Prime Minister and of the Presidents of the two Chambers of the Parliament.

He informs the Nation by a message.

The Parliament meets of plain right in extraordinary session.

The Parliament establishes the time period at the term of which the President of the Republic can no longer take the exceptional measures.

Legislative oversight of the executive

## Article 94

The President of the Republic addresses, one time per year, a message on the state [état] of the Nation to the Parliament meeting in Congress.

He can, at anytime, address messages to one or the other Chamber of the Parliament.

These messages do not give rise to any debate.

Prevention of state removal

## Article 95

The President of the Republic is justiciable before the High Court of Justice.

The penal responsibility of the President of the Republic may be engaged in the case of grave failure [manquement] in his duties, manifestly incompatible with the exercise of his high function.

In this case, the President of the Republic is impeached [mis en accusation] by the Parliament meeting in Congress deciding by a majority of three-quarters (3/4) of its members.

An organic law establishes the conditions and the procedure of impeachment of the President of the Republic.

Prevention of state immunity

## Article 96

Prosecution for acts qualified as crimes or misdemeanors or for grave failure in his duties committed on the occasion of the exercise of his function may no longer be exercised against the President of the Republic after the cessation of his functions.

The violation of the above provisions constitutes the crime of breach of duty [forfaiture] or high treason according to the law.

Members of cabinet  
Powers of government powers

## Article 97

The acts of the President of the Republic other than those specified in Articles 82, 87 and 93 are countersigned by the Prime Minister and the Ministers given the charge of



air  
execution.

Establishment of cabinet/ministers

## **SUB-TITLE II: OF THE GOVERNMENT**

### **Article 98**

The Government includes the Prime Minister, Head of the Government and the Ministers.

Head of government powers

### **Article 99**

The Prime Minister, in concert [concertation] with the President of the Republic, determines the economic and social policy of the Nation.

### **Article 100**

The Prime Minister is responsible for the conduct of the economic and social policy before the National Assembly.

Advisory bodies to the head of state

### **Article 101**

Head of government powers  
Delegation of active-duty commanders

The Prime Minister assures the execution of the laws and exercises the regulatory power in the matters other than those arising from the decrees in the Council of Ministers. He appoints to the civil and military employments other than those provided for in the Council of Ministers or by [a] simple decree of the President of the Republic.

He substitutes the President of the Republic in the presidency of the Councils of Defense as well as of the superior organs of orientation, of monitoring and of strategic decision in matters of defense and security.

Head of government powers

### **Article 102**

The Prime Minister convokes and holds the Council of the Cabinet.

He presides over the inter-ministerial committees.

### **Article 103**

On entering into his function, the Prime Minister presents before the National Assembly the program of action of the Government.

The presentation of the program of action of the Government does not give rise to [a]debate, or to [a] vote.

Members of cabinet

### **Article 104**

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

## **Article 105**

eligibility for cabinet  
restrictions on the armed forces

The functions of member of the Government are incompatible with the exercise of any elective mandate, of any function of professional representation of a national character and of any private or public, civil or military employment or of any other professional activity.

The members of the Government may exercise agricultural [and] cultural activities, [activities] of local councilor, of teaching [enseignement] and of research.

## **Article 106**

During the exercise of his functions, the Prime Minister and the other members of the Government cannot[,] by themselves or by [an] intermediaries, purchase or lease assets belonging to the domain of the State and of the local collectivities.

They may not take part in the public markets or the adjudications within the administrations or the institutions in which the State has interests.

They may not, for a fee or free of charge [à titre onéreux ou gracieux], acquire either for their account or for the account of third parties, the residences of functions [résidences de fonction] made available to them.

# **TITLE V: OF THE LEGISLATIVE POWER**

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## **SUB-TITLE I: OF COMMON PROVISIONS**

### **Article 107**

The Parliament is composed of two Chambers: the National Assembly and the Senate.

The Parliament exercises the legislative power and controls the action of the Government.

The means of information and of control of the Parliament over the action of the Government are:

- the interpellation;
- the oral question;
- the written question;
- the question of current issues;
- the hearing [audition] in commission;
- the parliamentary inquiry;
- the motion of censure.

### **Article 108**

The functions of Deputy and of Senator give right to the reimbursement of transport expenses and to the payment of the indemnities.

### **Article 109**

The mandates of Deputy and of Senator can be prolonged by the Constitutional Court referred to [the matter] by the President of the Republic, in the case of exceptionally grave circumstances impeding the normal development of the

legislative oversight of the executive

structure of legislative chamber(s)

Constitutional court powers

elections.

st chamber selection  
cond chamber selection

## Article 110

The law determines:

- the electoral circumscriptions;
- the number of seats and their division by administrative circumscription;
- the mode of the ballot;
- the conditions of organization of new elections in the case of vacancy of a seat, as well as the regime of the ineligibilities;
- the status [statut] of the Deputies and of the Senators.

ctoral districts

ie of first chamber  
ie of second chamber

placement of legislators  
gibility for first chamber  
gibility for second chamber

## Article 111

The candidates to the legislative or senatorial elections are presented by the political parties or by political groups.

They can also present themselves as independent candidates.

placement of legislators  
moval of individual legislators

## Article 112

The Deputies and the Senators lose their mandate if they are the object of a condemnation to an infamous penalty.

An elected Deputy or an [elected] Senator, presented by a political party or political group, who resigns from the party or from the political group in the course of the legislature, loses his status [qualité] of Deputy or of Senator.

Any ineligibility at the time of the elections known later [ultérieurement], as well as the incompatibilities provided for by the law, causes the loss of the mandate of Deputy or of Senator.

In the three cases, it proceeds to partial elections.

nstitutional court powers

## Article 113

The Constitutional Court decides, in cases of dispute, on the receivability of the candidatures and on the validity of the election of the Deputies and of the Senators.

## Article 114

The right to vote of the Deputies and of the Senators is personal. The vote by proxy is authorized.

The internal regulations of the National Assembly and of the Senate, declared in accordance with the Constitution by the Constitutional Court, establish the conditions of exercise of the vote by proxy.

## Article 115

• Scheduling of elections

:raordinary legislative sessions

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duties and  
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mandates  
commence  
the second  
day  
following  
the election.  
The  
number of  
members of  
the Parliament  
consists of  
members in right. If  
at a meeting  
takes place  
outside the  
territories  
provided for  
in ordinary  
provisions, an  
extraordinary  
session is  
opened of  
members in right for  
a duration of  
not more than (15)  
years.

The mandate  
of the  
members  
ends with the  
expiry of the  
term of the  
new  
Parliamentary  
Assembly.  
The elections  
take place  
every (20)  
years at least,  
and fifty (50)  
years at most,  
before the  
expiry of the  
mandate  
of the  
members.

The mandate of the Senators ends with the entering into [its] function of the new Senate. The elections take place twenty (20) days at least, and fifty (50) days at most, before the expiration of the mandate of the Senators.

## Article 116

It may not proceed to a partial election in the last semester of the legislature.

## Article 117

The Chamber of the Parliament meets of plain right in three ordinary sessions per year on convocation its President:

- the first session opens on 15 October and terminates on 23 December;
- the second session opens on 1 February and terminates on 10 April;
- the third session opens on 2 June and terminates on 13 August.

If 15 October, 1 February or 2 June is a holiday [jour férié], the opening of the session takes place on the first business [ouvrable] day that follows.

## Article 118

The agenda for each session is established by the conference of the Presidents.

## Article 119

Each Chamber of the Parliament is convoked in extraordinary session by its President on a determined agenda, at the demand of the President of the Republic or of the absolute majority of its members. The closure intervenes when the Chamber has exhausted the agenda for which it was convoked and, at the latest, fifteen days counting from the date of the beginning of its meeting.

## Article 120

The National Assembly and the Senate are each one directed by a Bureau that includes:

- a President;
- two Vice-Presidents;
- two secretaries;
- two treasurers [questeurs].

## Article 121

Each Chamber of the Parliament adopts internal regulations which determine its functioning, establish the legislative procedure and the modalities of control of the governmental action.

The internal regulations of each Chamber, declared conforming to the Constitution by the Constitutional Court, have [the] force of organic law.

The President of the National Assembly opens and closes the ordinary and extraordinary sessions of the National Assembly.



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## Article 122

The sittings of the two Chambers of the Parliament are public.

The complete record [compte rendu intégral] of the debates is published in the journal of debates. Nevertheless, the National Assembly or the Senate can sit in closed [session], at the demand of the President of the Republic, of the President of each Chamber or of one-third of their members.

## Article 123

In the case of vacancy of the Presidency of the National Assembly or of the Senate, because of death, resignation or any other cause, the concerned Chamber elects a new President within the fifteen (15) days following the vacancy if it is in session; in the contrary case, it meets of plain right within the conditions established by the internal regulations.

In the case of necessity, the other members of the Bureau are to be replaced [il est pourvu au] in conformity with the provisions of the interior regulations of each Chamber.

## Article 124

The Parliament alone votes the law.

It consents to the tax, votes the budget of the State and controls its execution. It is referred to [the matter] of the bill of the law of finance at the opening of the session of October.

## Article 125

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

- citizenship, the civic rights and the exercise of the public freedoms;
- the constraints imposed on the citizens, on their assets and on their persons, in the interest of the national defense and of public security;
- nationality, the status [état] and the capacity of persons, the matrimonial regimes, inheritance and gifts;
- the determination of crimes, of misdemeanors [délits] and of contraventions as well as of the penalties applicable to them;
- the organization of justice and of the procedure to be followed before the jurisdictions, the status of the magistrature and the juridical regime of the Superior Council of the Magistrature;
- the organization and the rules of functioning concerning the ministerial offices and of the liberal professions;
- the base [l'assiette], the rate and the modalities for recovering the taxes [impositions] of any nature, the loans and the financial engagements of the State;
- the regime for the emission of the currency;
- the approval of the contracts of sharing of production of the liquid or gaseous hydrocarbons or of the other mining resources.

The law equally establishes the rules concerning:

- the reform of the State;
- the creation of the public establishments;
- the regime of the referendum consultations;

- the electoral divisions;
- amnesty;
- the general status of the public function;
- the administrative organization of the territory;
- the free administration of local collectivities, their competences and their resources;
- the spatial organization of the territory [aménagement du territoire];
- the right to work [droit du travail], the syndical right and the regimes of social security;
- the nationalizations and the privatizations of enterprises;
- the plan for economic and social development;
- the environment and the conservation of the natural resources and of sustainable development;
- the regime of property, of real rights and of civil and commercial obligations;
- the regime of the political parties, of the non-governmental associations and organizations;
- the authorization of ratification of the international treaties and agreements;
- the organization of the national defense and of the [national] security;
- the regime of [the public] domain and [of] land use;
- the regime of the natural resources;
- insurance [mutualité], savings and credit;
- the law [droit] and regime of transport;
- the law [droit] and the regime of communications and of information;
- the law [droit] and penitentiary regime;
- the laws of finances;
- the program laws that establishes the objectives of the economic and social action of the State, the organization of the productive activities of the State and the grand orientations of the national defense and of security.

The law determines also the fundamental principles of:

- teaching [enseignement];
- health;
- social action;
- science, technology and innovation;
- industry;
- commerce;
- telecommunications;
- electricity;
- water;
- culture, arts and sports;
- agriculture, of animal husbandry, of fishing and the waters and forests.

## Article 126

Matters other than those that are of the domain of the law have a regulatory character.

nt meetings of legislative chambers

## Article 127

The National Assembly and the Senate can meet in Congress at the convocation of the President of the Republic.

inding committees

When the Parliament meets in Congress, the Bureau of the National Assembly presides over the debates.

An internal regulation determines the organization and the functioning of the Parliament meeting in Congress.

## SUB-TITLE II: OF THE NATIONAL ASSEMBLY

st chamber selection

## Article 128

aim of universal suffrage

The members of the National Assembly bear the title of Deputy. They are elected by universal direct suffrage. Each Deputy elected in an electoral circumscription is the representative of the entire Nation.

Any imperative mandate is null.

Each Deputy is elected with a substitute.

rm length for first chamber

## Article 129

The duration of the mandate of the Deputies is of five (5) years renewable.

munity of legislators

## Article 130

No Deputy may be prosecuted, or investigated, or detained or judged, for the opinions or votes emitted by him in the exercise of his functions.

No Deputy may, during the duration of the sessions, be prosecuted or arrested without the authorization of the National Assembly, except in the case of crime or flagrante delicto, of authorized prosecutions or of definitive condemnation.

inding committees

No Deputy may, outside of [the] sessions, be prosecuted or arrested without the authorization of the Bureau of the National Assembly, except in the case of flagrant delicto, of authorized prosecutions or of definitive condemnation.

placement of legislators  
itside professions of legislators  
moval of individual legislators

## Article 131

The mandate of Deputy is incompatible with any other function of public character. The other incompatibilities are established by the law.

In the case of incompatibility, the Deputy is replaced by his substitute. At the end of the incompatibility, he recovers [retrouve] his seat of plain right.

gibility for first chamber

## Article 132

The candidates to the elections to the National Assembly must:

- be of Congolese nationality;
- be aged eighteen (18) years at least;
- reside on the national territory at the moment of the presentation of the candidatures;
- enjoy all their civil and political rights;

- not have been condemned for voluntary crimes or misdemeanors.

## **SUB-TITLE III: OF THE SENATE**

### **Article 133**

The members of the Senate bear the title of Senator. They are elected by indirect universal suffrage by the departmental and municipal councilors.

The Senators represent the local collectivities of the Republic.

The Senate exercises, in addition to its legislative function, that of moderator and of council of the Nation.

### **Article 134**

The duration of the mandate of the Senators is of six (6) years renewable.

### **Article 135**

No Senator may be prosecuted, or investigated, or detained or judged, for the opinions or votes emitted by him in the exercise of his functions.

No Senator may, during the duration of the sessions, be prosecuted or arrested without the authorization of the Senate, except in the case of crime or flagrante delicto, of authorized prosecutions or of definitive condemnation.

No Senator may, outside of [the] sessions, be prosecuted or arrested without the authorization of the Bureau of the Senate, except in the case of flagrant delicto, of authorized prosecutions or of definitive condemnation.

### **Article 136**

The mandate of Senator is incompatible with any other function of public character. The other incompatibilities are established by the law.

In the case of incompatibility supervening in the course of the mandate, it proceeds to a partial senatorial election to provide for the seat [that has] become vacant.

### **Article 137**

The candidates to the senatorial elections must:

- be of Congolese nationality;
- be aged forty-five (45) years at least;
- reside on the national territory at the moment of the presentation of the candidatures;
- enjoy all their civil and political rights;
- not have been condemned for voluntary crimes or misdemeanors.

# TITLE VI: OF THE RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER

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## Article 138

The President of the Republic can dissolve the National Assembly.

## Article 139

The National Assembly can, by the vote of a motion of censure, overthrow [renverser] the Government.

## Article 140

Each Chamber of the Parliament orders [arrête] the agenda of its sessions.

The President of each Chamber informs the Government of it [en].

## Article 141

The Prime Minister and the other members of the Government have access to the works [travaux] of the National Assembly and of the Senate as well as of those of their commissions.

When they are invited by one or the other Chambers of the Parliament, the Prime Minister and the other members of the Government have the obligation to attend the sittings [séances] of the Chamber that made the demand and to furnish the parliamentarians [with] all [the] explanations related to their activities.

The Prime Minister and the other members of the Government may be heard at their demand. They may equally be heard on interpellation, on the written or oral questions that are addressed to them.

## Article 142

The Parliament controls the action of the Government.

## Article 143

The initiative of the laws belongs, concurrently, to the Government and to the members of the Parliament.

## Article 144

The bills of law are deliberated in the Council of Ministers after [the] opinion of the

dissolution of the legislature

motion of censure  
motion of government removal

legislative oversight of the executive

legislative committees

initiative of general legislation



Supreme Court and transmitted to one or the other Chamber of the Parliament.

The proposals of law, are, before deliberation and vote, communicated for [his] information to the Prime Minister.

## Article 145

The proposals of law and the amendments presented by the members of the Parliament and tending to augment or to diminish the expenses of the State must be paired [assortis] with proposals showing [dégageant] the correspondent receipts or savings.

## Article 146

The bills, the proposals of law and the amendments that are not of the domain of the law, are not receivable. The irreceivability is pronounced by the President of the interested Chamber, after deliberation of the Bureau.

In the case of dispute, the Constitutional Court, referred to [the matter] by the Prime Minister or by the President of the interested Chamber, decides within a time period of fifteen (15) days.

## Article 147

The discussion of the bills of law focuses on, before the first Chamber referred to [the matter], the text presented by the Government.

A Chamber, referred to [the matter of] a text voted by the other Chamber, deliberates on the text that is transmitted to it.

## Article 148

The bills and proposals of law are sent to one of the permanent commissions that each Chamber of the Parliament has.

The bills and proposals of law can, at the demand of the Government or of the Chamber referred [to the matter], be sent, for examination, to the special commissions designated to this effect.

The number and the nature of the permanent commissions are determined by the internal regulations of each Chamber of the Parliament.

The permanent commissions are constituted in a manner that reflects, as much as possible, the political configuration of each Chamber of the Parliament.

## Article 149

The Government and the members of Parliament have the right of amendment.

Any bill of law, any proposal of law, presented before one or the other Chamber of the Parliament, may be the objet of a withdrawal in the course of the debates or before the opening of these.

## Article 150

Any bill or any proposal of law is examined, successively, by the two Chambers with a view to 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 reading by each Chamber, the Prime Minister has the faculty to provoke the meeting of a mixed parity commission [commission mixte paritaire] given the charge of proposing a text on the provisions remaining in discussion.

The text, elaborated by the mixed parity commission is submitted, by the Prime Minister, for approval to the two Chambers of the Parliament. No amendment is receivable, save [with the] accord of the Government.

If the mixed parity commission does not achieve [parvient] the adoption of a common text, the Prime Minister can, after a new reading by the National Assembly and the Senate, demand of the National Assembly to definitively decide.

In this case, the National Assembly can retake either the text elaborated by the mixed parity commission, or the last text voted by it, modified, the case arising, by one or several amendments adopted by the Senate.

## Article 151

The laws to which the Constitution confers the character of organic laws, except the law of finance, are voted and modified in the following conditions:

- the bill or the proposal of law is only submitted for deliberation and vote to the first Chamber referred to [the matter] at the expiration of a time period of fifteen (15) days after its deposit;
- the procedure of Article 147 and 150 is applicable. However, lacking [an] agreement between the two Chambers, the text may only be adopted by the National Assembly in [its] final reading with the absolute majority of its members;
- the organic laws may not be promulgated until after the declaration by the Constitutional Court of their conformity with the Constitution.

## Article 152

The Parliament is referred to [the matter] of the bill of the law of finance at the latest eight (8) days before the opening of the session of October.

The National Assembly is referred to [the matter] in the first instance [en premier lieu] of the bill of the law of finance of the year, of the rectifying [rectificatives] bills of law of finance and of the bills of law of regulation.

## Article 153

If the Parliament has not voted the budget at the end of the session of October, the Prime Minister demands an extraordinary session of which the duration cannot exceed fifteen (15) days.

Passing this time, the budget is established, definitively, by ordinance after the opinion of the Constitutional Court.

If the Parliament has not been referred to [the matter] of the bill of the law of finance within the time periods specified in Article 152 and the budget has not been voted in the course [issu] of this first extraordinary session, a second extraordinary session is convoked at the demand of the Prime Minister.

## Article 154

An organic law regulates the mode of presentation of the budget of the State.

The Parliament regulates the accounts of the Nation. It is assisted, to this end, by the

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Budgetary  
discipline.

## Article 155

The bill of law of regulation is presented and distributed, at the latest, at the end of the year that follows the year of execution of the budget.

## Article 156

The declaration of war is authorized by the Parliament meeting in Congress. When, following exceptional circumstances, the Parliament cannot sit usefully, the decision on the declaration of war is taken in the Council of Ministers by the President of the Republic. He informs the Nation immediately of it.

## Article 157

The state of urgency like the state of siege is decreed by the President of the Republic in [the] Council of Ministers. The Parliament meets of plain right.

The state of urgency like the state of siege may be proclaimed in all or [in] part of the Republic for a duration that may not exceed twenty (20) days.

In both cases, the President of the Republic informs the Nation by a message. The Parliament meets of plain right, if it is not in session, to, as need be, authorize the extension of the state of urgency or of the state of siege for more than twenty (20) days.

When, following exceptional circumstances, the Parliament cannot sit, the President of the Republic can decide on the maintenance of the state of urgency or the state of siege. He informs the Nation of it through a message.

A law determines the conditions of implementation of the state of urgency or of the state of siege.

## Article 158

The Government can, to execute its program, demand of the Parliament to vote [on] a law authorizing it to take, by ordinance, during a limited time period, the measures that are normally of the domain of the law.

This authorization is granted with the simple majority of the members of the Parliament. The demand indicates the matters in which the Government wishes that the ordinances be taken.

The ordinances are taken in the Council of Ministers, after the opinion of the Supreme Court. They enter [into] force from their publication but become lapsed if the bill of the law of ratification is not presented to the Parliament before the date established by the enabling law [loi d'habilitation].

When the demand for habilitation is rejected, the President of the Republic can, on [a] conforming decision of the Constitutional Court, legislate by ordinance.

At the expiration of the time period mentioned in this Article, the ordinances may only be modified by the law in their provisions that are of the legislative domain.

## Article 159

The Prime Minister can, after deliberation of the Council of Ministers, engage before

nt meetings of legislative chambers  
wer to declare/approve war

urgency provisions

ad of government decree power  
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The National Assembly, after [a] debate, emits a vote. Confidence may only be refused to the Government by a majority of two-thirds (2/3) of the Deputies composing the National Assembly.

When confidence is refused, the Prime Minister remits to the President of the Republic the resignation of the Government.

## **Article 160**

The National Assembly can accuse the responsibility of the Prime Minister and of the other members of the Government by the vote of a motion of censure.

To be receivable, the motion of censure must be signed by at least one quarter (1/4) of the Deputies composing the National Assembly.

The debate and the vote of the motion of censure take place within the forty-eight (48) hours that follow its presentation before the National Assembly.

At the time of the vote, only the voices [voix] favorable to the motion of censure are taken into account.

The motion of censure is adopted by the majority of two-thirds (2/3) of the members composing the National Assembly.

The vote is individual.

The vote by proxy is authorized in the conditions established by the internal regulations of the National Assembly.

## **Article 161**

When the motion of censure is adopted, the Prime Minister remits to the President of the Republic the resignation of the Government.

## **Article 162**

The President of the Republic, after having declared the changes intervening in the National Assembly and after consultation with the Presidents of the Chambers of the Parliament and with the Prime Minister, can pronounce the dissolution of the National Assembly.

In this case, new legislative elections are organized in accordance with the texts in force.

## **Article 163**

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

## **Article 164**

There may not be more than one motion of censure in the course of the same session.

During the year preceding the end of the legislature, no motion of censure may be presented.

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Dismissal of the legislature

## Article 165

In the case of [a] persisting crises between the Government and the National Assembly rendering impossible the regular functioning of the institutions, the President of the Republic, after having informed the Presidents of the two Chambers and the Prime Minister, pronounces the dissolution of the National Assembly.

New elections are organized in accordance with the texts in force.

It may not proceed to any dissolution of the National Assembly in the course of the last year of the legislature.

## TITLE VII: OF THE JUDICIAL POWER

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Right to appeal judicial decisions  
Structure of the courts

### Article 166

A judicial power is instituted[,] exercised by the Supreme Court, the Courts of Appeal and the other national jurisdictions.

Establishment of administrative courts  
Establishment of labor courts

The Supreme Court, the Courts of Appeal, the Tribunals of first instance [Tribunaux de grande instance], the Administrative Tribunals, the Labor Tribunal, the Commercial Tribunals, the Tribunals of instance [Tribunaux d'instance] as well as the other national jurisdictions are created by the organic laws that establish their resort, their composition, their organization and their functioning.

### Article 167

Justice is rendered on the national territory in the name of the Congolese People.

### Article 168

Judicial independence

The judicial power is independent of the executive power and of the legislative power.

The judicial power decides on the disputes arising [litiges nés] between citizens or between citizens and the State.

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

### Article 169

The judicial power cannot intrude [empiéter] on the attributions of the executive power, or on those of the legislative power.

The executive power cannot decide on the disagreements [différends], or impede [entraver] the course of justice or oppose itself to the execution of a decision of justice.

The legislative power cannot decide on the disagreements, or impede [entraver] the course of justice or oppose itself to the execution of a decision of justice.

Any law, of which the goal is to furnish the solution to a process in course, is null and

no effect.

Establishment of judicial council

## Article 170

A Superior Council of the Magistrature is instituted[,] presided over by the President of the Republic.

The Minister of Justice is [the] first Vice President of it. He can substitute for the President of the Republic in the presidency of the meetings of the Superior Council of the Magistrature.

Attorney general

The First President of the Supreme Court, the Procurator General, the Vice President, [and] the First Advocate General [Avocat général] are members by right of the Superior Council of the Magistrature.

They are placed [as] Magistrates outside [the] convention [magistrats hors convention].

The law establishes the modalities of the cessation of the functions of the Magistrates placed outside [the] convention.

Establishment of judicial council

## Article 171

The President of the Republic guarantees the independence of the judicial power through the Superior Council of the Magistrature.

The Superior Council of the Magistrature decides as [a] council of discipline and as [the] organ of administration [gestion] on the career of the Magistrates.

The Superior Council of the Magistrature, under the authority of the President of the Republic, may take all measures that could contribute to the regular functioning of the Courts and Tribunals.

## Article 172

Supreme court selection  
Establishment of judicial council  
Ordinary court selection

The members of the Supreme Court and the magistrates of the other national jurisdictions are appointed by the President of the Republic, by decree in [the] Superior Council of the Magistrature.

Supreme court term length

The presiding Magistrates [magistrats du sige] are irremovable.

## Article 173

The law establishes the special status [statut] of the sole [unique] body of the Magistrates of the Supreme Court, of the Courts of Appeal and of the other national jurisdictions.

Establishment of judicial council

## Article 174

An organic law establishes the organization, the composition and the functioning of the Superior Council of the Magistrature.

# TITLE VIII: OF THE CONSTITUTIONAL COURT

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Establishment of constitutional court

Constitutional court powers  
Constitutional interpretation

International law  
Legal status of treaties

Constitutional court powers

Constitutional court powers

Constitutionality of legislation

Constitutionality of legislation

## Article 175

The Constitutional Court is the high jurisdiction of the State in constitutional matter. It is [the] judge of the constitutionality of the laws, [and] of the international treaties and agreements.

The Constitutional Court is the regulatory organ of the functioning of the institutions and of the activities of the public powers.

## Article 176

The Constitutional Court sees to the regularity of the election of the President of the Republic.

It examines the claims and proclaims the definitive results of the ballot.

The Constitutional Courts sees to the regularity of the operations of the referendum and proclaims the definitive results of it.

## Article 177

The Constitutional Court is [the] judge of the electoral disputes of the legislative and senatorial elections. As such, it examines the recourses concerning the contesting [contestation] of the candidatures and of the results of those elections.

The disputes of the elections other than those specified in this Constitution arise in the ordinary jurisdictions.

## Article 178

The Constitutional Court is referred to [a matter] by the President of the Republic, by the President of the National Assembly, by the President of the Senate, the Prime Minister or by a third of the members of each Chamber of the Parliament.

## Article 179

The Constitutional Court is referred to [a matter], for opinion of conformity, before the promulgation of the organic laws or the implementation of the Internal Regulations of each Chamber of the Parliament.

In this case, the Constitutional Court decides within a time period of one (1) month.

However, on the express demand of the petitioner [requérant], this time period can be reduced to ten (10) days if there is urgency.

The referral [to a matter] of the Constitutional Court suspends the time period for

promulgation of the law or for the implementation of the Internal Regulations.

constitutionality of legislation

## Article 180

Any person [particulier] can, either directly, or by the procedure of the plea [exception] of unconstitutionality invoked before a jurisdiction in a matter that concerns him, refer the Constitutional Court to [a matter] concerning the constitutionality of the laws and of the treaties.

In the case of [a] plea of unconstitutionality, the referred jurisdiction postpones [its] decision and grants [impartit] the petitioner a time period of one (1) month from the notification of the decision to refer [the matter] to the Constitutional Court.

international law  
legal status of treaties

constitutionality of legislation

## Article 181

A provision declared unconstitutional cannot be promulgated or implemented.

The decisions of the Constitutional Court are not susceptible to any recourse. They impose themselves on the public powers, on all the administrative authorities, jurisdictional [authorities] and on individuals [particuliers].

constitutional court selection

## Article 182

The Constitutional Court is composed of nine (9) members appointed as follows:

- three (3) by the President of the Republic;
- two (2) by the President of the Senate;
- two (2) by the President of the National Assembly;
- two (2) by the Supreme Court from among the members of this jurisdiction.

## Article 183

The President of the Constitutional Court is appointed by the President of the Republic from among its members. He has [a] preponderant voice in the case of equal division [partage] of the voices.

## Article 184

The functions of member of the Constitutional Court are incompatible with those of member of the Government, of the Parliament or of the Supreme Court.

eligibility for const court judges

## Article 185

The notable persons [personnalités] condemned for forfeiture, high treason, perjury or any other crime may not be members of the Constitutional Court.

The other incompatibilities are established by the law.

## Article 186

The mandate of the members of the Constitutional Court is of four (4) years renewable two times.

constitutional court term limits  
constitutional court term length

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» members  
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Court.

## **Article 187**

The Constitutional Court is composed of at least six (6) notable persons enjoying of experience in the domain of the Law.

## **Article 188**

An organic law determines the organization and the functioning of the Constitutional Court as well as the procedure to be followed.

# **TITLE IX: OF THE COURT OF ACCOUNTS AND OF BUDGETARY DISCIPLINE**

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## **Article 189**

A Court of Accounts and of Budgetary Discipline is instituted.

## **Article 190**

An organic law determines the attributions, the organization, the composition and the functioning of the Court of Accounts and of Budgetary Discipline as well as the procedure to be followed.

# **TITLE X: OF THE HIGH COURT OF JUSTICE**

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## **Article 191**

A High Court of Justice is instituted.

The High Court of Justice is composed of Deputies and of Senators elected in [an] equal number by their peers, and of members from [issus] the Supreme Court equally elected by theirpeers.

The representation of the parliamentarians within the High Court of Justice must reflect, as much as possible, the political configuration of each Chamber of the Parliament.

The High Court of Justice is presided over by the First President of the Supreme Court. The Public Ministry is represented by the Procurator General before [près] the Supreme Court.

## **Article 192**

The High Court of Justice is competent to judge the President of the Republic in the case of grave failure [manquement] in his duties, manifestly incompatible with the



exercise of his high function.

## Article 193

The members of the National Assembly and of the Senate, the Prime Minister, the Ministers, the members of the Supreme Court and the members of the Constitutional Court, are justiciable before the High Court of Justice, for the acts qualified as crimes or misdemeanors committed in the exercise of their functions. They may only be impeached by the Parliament meeting in Congress deciding by a vote in secret ballot by the majority of the two-thirds of their members.

## Article 194

The coauthors and the accomplices of the persons referred to [visées] in Articles 192 and 193 above are equally justiciable before the High Court of Justice, without it being necessary that the act of impeachment concerning them emanates from the Parliament.

## Article 195

An organic law determines the organization and the functioning of the High Court of Justice as well as the procedure to be followed.

# TITLE XI: OF THE ECONOMIC, SOCIAL AND ENVIRONMENTAL COUNCIL

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## Article 196

An Economic, Social and Environmental Council is instituted.

## Article 197

The Economic, Social and Environmental Council is, vis-à-vis [auprs de] the public powers, a consultative assembly.

It is referred to [a matter] by the President of the Republic, the President of the National Assembly or the President of the Senate.

It may, on its own initiative, refer to itself any problem of an economic, social or environmental character.

The Economic, Social and Environmental Council may, also, be consulted on the drafts [projets] of international treaties and agreements, the bills [projets] or the proposals of laws as well as the bills of decrees by virtue of [en raison de] their economic, social or environmental character.

The Economic, Social and Environmental Council is referred to [the matter] of every bill of program law [loi de programme] and plan of development with an economic, social or environmental character, with the exception of the budget of the State.

## Article 198

The function of member of the Economic, Social and Environmental Council is

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## **Article 199**

An organic law establishes the organization, the composition, the rules of functioning and the modalities of appointment of the members of the Economic, Social and Environmental Council.

# **TITLE XII: OF THE MEDIATOR OF THE REPUBLIC**

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## **Article 200**

A Mediator of the Republic is instituted.

## **Article 201**

The Mediator of the Republic is an independent authority, given the charge of simplifying and humanizing the relations between the administration and the administered.

## **Article 202**

Any physical or moral person, who considers [estime], on the occasion of a matter concerning him, that a public organ [organisme] did not function in conformity with the mission of public service attributed [dévolue] to it can, by an individual request, refer the Mediator of the Republic [to the matter].

## **Article 203**

The organic law defines the attributions and establishes the conditions of organization, of appointment, of functioning and of referral [of a matter] of the Mediator of the Republic.

# **TITLE XIII: OF THE PUBLIC FORCE**

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## **Article 204**

The public force is composed of the National Police, by the National Gendarmerie and by the Congolese Armed Forces.

## **Article 205**

The public force is apolitical. It is subject to the laws and regulations of the Republic. It is instituted in the general interest. No one must utilize it for personal ends.

The public force is subordinated to the civil authority. It only acts within the framework of the laws and regulations. The conditions of its implementation are established by the law.

### **Article 206**

The law establishes the missions, determines the organization and the functioning as well as the special status [statut] of the personnel of the Police, of the Gendarmerie and the Congolese Armed Forces.

### **Article 207**

The creation of militias is a crime punished by the law.

## **TITLE XIV: OF THE LOCAL COLLECTIVITIES**

## Article 208

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regulated by the law.

## Article 209

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the local collectivities a consequent contribution of development.

All imputation of the expenses of sovereignty of the State on the budgets of the decentralized collectivities is prohibited.

## Article 210

[The following] are of the competence of the local collectivities:

- the planning, the development and the spatial organization [aménagement] of the department;
- urbanism and habitat;
- pre-school, primary and secondary teaching;
- basic health, social action and civil protection;
- the prevention, the reduction of risks and the administration of catastrophes;
- the environment, tourism and leisure;
- the sport and cultural action;
- agriculture, the livestock, fishing and pisciculture;
- the administration and finance;
- commerce and artcraft;
- transports;

- the road [routier] maintenance;
- the budget of the local collectivity. The law determines equally the financial regime of the local collectivities as well as the fundamental principles of the territorial public function.

## **Article 211**

An organic law establishes the conditions in which the State exercises its protection [tutelle] concerning the decentralized local collectivities, as well as the other competences to be transferred, not specified [visées] by this law.

# **TITLE XV: OF THE SUPERIOR COUNCIL OF THE FREEDOM OF COMMUNICATION**

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## **Article 212**

A Superior Council of the Freedom of Communication is instituted.

The Superior Council of the Freedom of Communication is given the charge of seeing to the good exercise of the freedom of information and of communication.

It equally emits technical opinions and formulates recommendations on the questions touching the domain of information and of communication.

## **Article 213**

An organic law determines the missions, the organization, the composition and the functioning of the Superior Council of the Freedom of Communication.

# **TITLE XVI: OF THE NATIONAL COMMISSION OF THE RIGHTS OF MAN**

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## **Article 214**

A National Commission of the Rights of Man is instituted.

## **Article 215**

The National Commission of the Rights of Man is a monitoring organ [organe de suivi] of the promotion and of the protection of the rights of man.

## **Article 216**

The law determines the missions and establishes the organization and the functioning of the National Commission of the Rights of Man.

# TITLE XVII: OF THE INTERNATIONAL TREATIES AND AGREEMENTS

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ernational law

## Article 217

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

ty ratification

ession of territory  
ernational organizations

The ratification may only intervene after the authorization of the Parliament, notably in that which concerns the treaties of peace, the treaties of defense, the treaties of commerce, the treaties relative to the natural resources or the agreements relative to the international organizations, those which engage the finances of the State, those which modify the provisions of a legislative nature, those which are relative to the status [état] of persons, [and] those that include cession, exchange or adjunction of the territory.

ty ratification

## Article 218

The law determines the agreements dispensed from the procedure of ratification.

The President of the Republic and the Presidents of the two Chambers of the Parliament are informed of all negotiations tending to the conclusion of an international agreement not submitted to ratification.

ession of territory  
ferenda

## Article 219

No cession, no exchange, no adjunction of the territory is valid without the consent of the Congolese People called to decide by way [voie] of referendum.

ty ratification

## Article 220

With the exception of the President of the Republic and of the Minister of Foreign Affairs, every representative of the State must, for the adoption or authentication of an international engagement, produce full powers.

ernational organizations

## Article 221

The Republic of the Congo may conclude agreements of association with other States.

It accepts to create, with those States, intergovernmental organs [organismes] of common administration, of coordination, of free cooperation and of integration.

nstitutional court powers  
gal status of treaties

## Article 222

If the Constitutional Court has declared that an international engagement includes a clause contrary to the Constitution, the authorization to ratify it or to approve it may



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## **Article 223**

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

# **TITLE XVIII: OF THE STATUS OF THE FORMER LEADERS**

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## **Article 224**

The former Presidents of the Republic have the right, at the end of their mandate, to the protection of the State both on their person and on their assets.

A life annuity [allocation viagre] of which the amount is established by decree in [the] Council of Ministers is paid to them monthly, as [a] pension.

The other advantages and the modalities of protection of the former Heads of State are determined by the law.

## **Article 225**

The former Presidents of the Parliamentary Assemblies and the former Prime Ministers, with the exception of those who have been condemned for forfeiture, benefit from the recognition of the Nation.

The law determines the nature and the forms of this recognizance.

## **Article 226**

The law determines the other former leaders able to [pouvant] benefit from the recognition of the Nation as well as the advantages that are granted to them.

# **TITLE XIX: OF THE NATIONAL CONSULTATIVE COUNCILS**

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## **SUB-TITLE I: OF THE NATIONAL COUNCIL OF DIALOG**

## **Article 227**

A National Council of Dialog is instituted[,] placed under the authority of the President of the Republic.

## **Article 228**

The National Council of Dialog is an organ of negotiation [concertation/consultation], of appeasement and of research of consensus between the living forces of the Nation, on the grand political problems of national interest.

## **Article 229**

An organic law determines the organization, the composition and the functioning of the National Council of Dialog.

## **SUB-TITLE II: OF THE CONSULTATIVE COUNCIL OF THE WISE AND OF TRADITIONAL NOTABLES**

### **Article 230**

A Consultative Council of the Wise and of Traditional Notables is instituted[,] responsible for emitting opinions on the democratic, cultural and social governance of the State and of making suggestions to the Government that may contribute to an inclusive [solidaire] political administration.

### **Article 231**

An organic law determines the organization, the composition and the functioning of the Consultative Council of the Wise and of Traditional Notables.

## **SUB-TITLE III: OF THE CONSULTATIVE COUNCIL OF WOMEN**

### **Article 232**

A Consultative Council of Women is instituted[,] responsible for emitting opinions on the condition of women and of making suggestions to the Government aiming to promote the integration of women into the development.

### **Article 233**

An organic law determines the organization, the composition and the functioning of the Consultative Council of Women

## **SUB-TITLE IV: OF THE CONSULTATIVE COUNCIL OF PERSONS LIVING WITH HANDICAPS**

### **Article 234**

A Consultative Council of Persons Living With Handicaps is instituted[,] responsible for emitting opinions on the condition of the person living with handicaps and of making suggestions to the Government aimed at better support [prise en charge/enabling] of the person living with handicaps.

### **Article 235**

An organic law determines the organization, the composition and the functioning of the Consultative Council of Persons Living With Handicaps.

## **SUB-TITLE V: OF THE CONSULTATIVE COUNCIL OF YOUTH**

### **Article 236**

A Consultative Council of Youth is instituted[,] responsible for emitting opinions on the questions linked to the full development [épanouissement] of youth within the framework of an intergenerational governance.

### **Article 237**

An organic law determines the organization, the composition and the functioning of the Consultative Council of Youth.

## **SUB-TITLE VI: OF THE CONSULTATIVE COUNCIL OF CIVIL SOCIETY AND OF NON-GOVERNMENTAL ORGANIZATIONS**

### **Article 238**

A Consultative Council of Civil Society and of Non-Governmental Organizations is instituted[,] responsible for emitting opinions on the questions linked to the participation of citizens in the life of the Nation in view of the promotion of the rights and freedoms of the citizens and of the republican values.

### **Article 239**

An organic law determines the organization, the composition and the functioning of the Consultative Council of Civil Society and of Non-Governmental Organizations.

## **TITLE XX: OF REVISION**

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### **Article 240**

The initiative of the revision of the Constitution belongs concurrently to the President of the Republic and to the members of the Parliament.

No procedure of revision may be engaged or pursued in [an] interim period or when it infringes the integrity of the territory.

The republican form, and the secular character of the State may not be made the object of revision.

### **Article 241**

When it emanates from the President of the Republic, the bill of revision is

Court.

It may also be submitted, after the opinion of the Supreme Court, to the Parliament meeting in Congress, which decides by a vote with the majority of three-quarters

(3/4) of its members.

When the proposal of revision emanates from a member of the Parliament, must be voted by three-quarters (3/4) of the members of the two Chambers of the Parliament meeting in Congress.

The President of the Republic is informed in advance of any bill of revision of the Constitution. He sends [fait parvenir] his opinion to the Parliament meeting in Congress.

## **Article 242**

An organic law establishes the procedure for the revision of the Constitution.

# **TITLE XXI: TRANSITORY AND FINAL PROVISIONS**

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## **Article 243**

The international treaties and agreements, the laws, the ordinances and the regulations currently in force, when they are not contrary to this law, remain applicable as long as they are not expressly modified or abrogated.

## **Article 244**

The institutions derived from [issues] the Constitution of 20 January 2002 function until the establishment [mise en place] of the new institutions without being able to [pouvoir] exceed, for the institutions provided for in [an] elective way [voie], the expiration of their mandate.

## **Article 245**

Any Congolese citizen, without exclusion, who fulfills the conditions of eligibility, may present a candidature [faire acte de candidature] to the elective public functions specified by this Constitution.

## **Article 246**

This law, which enters into force from its publication, will be executed as Constitution of the Republic of Congo.

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