



## **Constitution of The Republic of Congo**

Adopted 15 March 1992

### **PREAMBLE**

Unity, Work, Progress, Justice, Dignity, Liberty, Peace, Prosperity, and Love for the Fatherland have been since independence, notably under mono-partyism, hypothesized or retarded by totalitarianism, the confusion of authorities, nepotism, ethnocentrism, regionalism, social inequalities, and violations of fundamental rights and liberties. Intolerance and political violence have strongly grieved the country, maintained and accrued the hate and divisions between the different communities that constitute the Congolese Nation.

The coup d'etat has inscribed itself in the political history of the Congo as the only means to accede to power and to annihilate the hopes of a truly democratic life.

Consequently, We, the Congolese People, concerned to:

- create a new political order, a decentralized State where morality, law, liberty, pluralist democracy, equality, social justice, fraternity, and the general well-being rein;
- preserve the sacred character of the human person;
- assure to the individual and the family the conditions necessary for their harmonious development;
- guarantee the participation of everyone in the life of the Nation;
- preserve our unity within cultural diversity;
- promote a rational exploitation of our riches and our natural resources;
- dispose of ourselves freely and to reaffirm our independence;
- cooperate with all peoples who share our ideals of peace, liberty, justice, human solidarity, on the basis of principles of equality, reciprocal interest and mutual respect, sovereignty, and territorial integrity;
- contribute to world peace as a member of the United Nations Organization (UN) and the Organization for African Unity (OAU); and
- to strive for the creation of large sub-regional economic groupings;

order and establish for the Congo the present Constitution which enunciates the fundamental principles of the Republic, defines the rights and duties of individuals, fixes the form of Government according to the principle of separation of powers;

declare as an integral part of the present Constitution the principles proclaimed and guaranteed by the 1945 Charter of the United Nations, the 1948 Universal Declaration of Human Rights, the 1981 African Charter of the Rights of Man and Peoples and all duly ratified pertinent international texts, relative to the Right of Man, the Charter of National Unity, and the Charter of the Rights and Liberties adopted by the Sovereign National Conference on 29 May 1991; and

proclaim:

- the duty of the State to assure the diffusion and the instruction of the Constitution, of the 1945 Charter of the United Nations, of the 1948 Universal Declaration of Human Rights, of the 1981 African Charter of the Rights of Man and Peoples, of the Charter of National Unity and the Charter of the Rights and Liberties adopted by the Sovereign National Conference on 29 May 1991, the right of any citizen to seat the Constitutional Counsel for the purpose of annulment of any law or any act contrary to the present Constitution;
- the obligation of all the organs of the State to apply the dispositions of the present Constitution and make them respected;
- the right and obligation of every citizen to resist by civil disobedience upon the default of other resources, no matter what enterprise to overthrow the constitutional regime, to take power by a coup d'etat or exercise in a tyrannical manner.

## CHAPTER ONE

### *STATE AND SOVEREIGNTY*

#### Article 1 - State Form

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

#### Article 2 - Flag

- (1) The National emblem is the tri-colored flag, green yellow, red. Of a rectangular form, it is composed of two triangles of the color green and red, separated by a diagonal yellow band, the green being on the side of the flagstaff.
- (2) The law shall prescribe the dimensions, the tones of the colors, and the other details of the flag.

#### Article 3 - Anthem, Motto, Seal, Coat of Arms, Language, Capital

- (1) The national anthem is "La Congolaise".
- (2) The Motto of the Republic is "Unity - Work - Progress".
- (3) The Seal of the State and Coat of Arms of the Republic shall be defined by law.
- (4) The official language is French.
- (5) The functional national languages are Lingala and Munukutuba.
- (6) The Capital of the Republic of the Congo is Brazzaville.

#### Article 4 - Sovereignty, Democracy, Principle

- (1) National Sovereignty shall belong to the people who exercise it by way of referendum and by representatives elected by universal suffrage.
- (2) No individual nor faction of the people shall attribute to itself its exercise.
- (3) The principle of the Republic is: Government of the people, by the people, and for the people.

#### Article 5 - Suffrage, Electoral Rights

Suffrage shall be universal, equal, secret, free, and sincere. In the conditions determined by law and under the reserve of provisions provided for in Articles 68 and 93, all Congolese nationals of the two sexes, having attained eighteen years of age, in possession of their civil and political rights shall be voters.

#### Article 6 - Political Participation

Every citizen shall have the right to take part in the direction of the public affairs of the country either directly, or by the intermediation of their representatives.

#### Article 7 - Political Parties

Political Associations, Parties, and Groupings concur in the expression of suffrage. They shall freely

form and exercise their activities in respect of the law and the principles of national sovereignty, integrity of territory, National Unity, and pluralist democracy.

#### Article 8 - Unconstitutional Parties and Activities

(1) Political Associations, Parties, and Groupings of which the goals aim to touch or overthrow the democratic constitutional order or compromise the existence of the Republic of the Congo shall be unconstitutional. They shall incur the sanctions provided for by the law.

(2) Any propaganda or any act aiming to touch the internal security of the State, the national unity, and the territorial integrity shall be unconstitutional and punished by the laws and regulations in effect.

#### Article 9 - Natural Resources

The State shall exercise its total and permanent sovereignty over all its riches and natural resources including the possession and the right to use and dispose of them. At all times, it shall guarantee the freedom of private initiative in these domains.

### CHAPTER TWO

#### *FUNDAMENTAL RIGHTS AND LIBERTIES*

#### Article 10 - Right to Life, General Liberty

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

(2) The State shall have the absolute obligation to respect and protect him. Every citizen shall have the right to the free development and the full flowering of his person in his psychological, intellectual, spiritual, material, and social dimensions in respect of the rights of others, public order, and good mores.

#### Article 11 - Equality, Gender Equality, Liability

(1) The State shall assure the equality of all citizens before the law, without discrimination of origin, social or material situation, racial, ethnic and regional origin, sex, instruction, language, attitude vis-avis religion and philosophy, or place of residence. It shall respect all the rights and liberties within limits compatible with public order and good mores.

(2) The State shall have the duty to strive for the elimination of any form of discrimination with regard to women and to assure the protection of their rights in all domains of private and public life such as stipulated in the international Declarations and Conventions ratified by the Congo.

(3) Any act which accords privileges to nationals or limits their rights by reason of the considerations targeted in Paragraph (1) shall be punished by the penalties provided for by law.

#### Article 12 - Personal Liberty, Presumption of Innocence

The liberty of the human person is inviolable. One shall be accused, arrested, or detained only in the cases determined by law and according to the forms which it prescribes. Every accused shall be presumed innocent until his guilt shall be established at the end of a procedure offering him the guaranties of a defense.

#### Article 13 - Detention

No one shall be incarcerated except in the cases provided by law.

#### Article 14 - No Exceptional Jurisdiction

Under reserve of the provisions provided by the present Constitution and for a scrupulous respect for the human person, every exceptional use of judicial power shall be banished.

#### Article 15 - Nulla Poena Sine Lege

The law shall only establish penalties strictly and evidently necessary, and one shall only be punished in virtue of a law established and promulgated anterior to the infraction and equally applied.

#### Article 16 - No Torture, Liability

Any act of torture, any cruel, inhuman, or degrading treatment shall be prohibited. Anyone found guilty of the acts enunciated in the present article, shall be punished according to the law.

#### Article 17 - Right to Resistance

Any citizen may oppose the execution of an order received when it touches the rights and liberties contained in the present Constitution.

#### Article 18 - Petition, Appeal

Each citizen shall have the right to introduce a written demand to the appropriate organ of the State.

#### Article 19 - Recourse to the Courts

Any citizen subjected to a prejudice by an act of the administration shall have the right to judicial recourse.

#### Article 20 - Recognition of Juridical Personality

Each citizen shall have the right in any place to the recognition of his juridical personality.

#### Article 21 - Citizenship

Every Congolese shall have the right to Congolese citizenship. Neither it nor his right to change nationality shall be arbitrarily taken from him.

#### Article 22 - Movement

- (1) Every citizen shall possess the right to freely circulate on the national territory.
- (2) He shall only be hindered by road blocks in conditions determined by law.
- (3) Every citizen shall have the right to freely choose his place of residence. He shall have the right to freely leave the national territory, if he is not the object of judicial proceedings, and to return thereto.

#### Article 23 - Searches

Searches, in all forms, shall be authorized only in conditions determined by law.

#### Article 24 - Home

The home is inviolable. Searches shall only be ordered in the forms and conditions prescribed by law.

#### Article 25 - Association, Political Parties

Each citizen shall have the right to create a party, syndicate, associations, or to adhere to them.

#### Article 26 - Religion, Civic Duties

- (1) Freedom of belief and conscience and the freedom of either a religious or philosophical profession are inviolable.
- (2) The free exercise of religious sects shall be guaranteed within the limits compatible with public order and good mores.
- (3) No one shall be relieved from fulfilling a civic duty because of religious opinion.

#### Article 27 - Expression, Media, Information

- (1) Every citizen shall have the right to freely express and diffuse his opinion by speech, by writing, and by image.
- (2) Freedom of the press and freedom of information shall be guaranteed.
- (3) Censure shall be prohibited.
- (4) Access to sources of information shall be free.
- (5) Every citizen shall have the right to information and communication. Activities relative to these domains shall be exercised in total independence in respect of the law.

#### Article 28 - Secrecy of Communication

Secrecy of letters, correspondence, telecommunications, or any other form of communication shall not be violated except in the case prescribed by law.

#### Article 29 - Assembly

- (1) All citizens shall have the right to peacefully assemble, without previous authorization or declaration.
- (2) Peaceful assemblies and manifestations in the public shall be regulated.
- (3) Freedom to have a parade shall be guaranteed.
- (4) The law shall determine the conditions of its use.

#### Article 30 - Property

- (1) Property and the right to succession shall be guaranteed. Transfer and expropriation shall only be allowed under the condition of a just and prior indemnification.
- (2) In case of contestation, the proprietor shall be responsible for seating the competent tribunals.

#### Article 31 - Work, Labor Equality, No Forced Labor, No Slavery

- (1) Work is a sacred right and duty. The State shall guarantee the freedom to work. Every citizen shall have the right to be compensated according to his work and his capacity. For the same work, a woman shall have the right to the same salary as a man.
- (2) Any discrimination based on race, sex, physical state, regional and ethnic origin, ideology, religion, or philosophy shall be prohibited.
- (3) Except for the agents of the Public Force, Congolese citizens shall possess the freedom to unionize and to strike. No one shall be submitted to forced labor, except in the case of a liberty-depriving sentence pronounced by a tribunal. No one shall be reduced to slavery.

#### Article 32 - Enterprise

Every person shall have the right to enterprise in the economic sectors of his choice in respect of the laws and regulations.

#### Article 33 - Rest, Leisure, Paid Vacation, Holidays

Every person shall have the right to rest and leisure notably to a legal limitation to the duration of work and periodic paid vacations as well as remuneration for holidays.

#### Article 34 - Health, Aged, Handicapped

- (1) The State is the guarantor of public health. Every citizen shall have the right to a level of life sufficient to assure his health, his well-being and that of his family, notably food, clothing, shelter, medical care as well as necessary social services.
- (2) The right to create private socio-sanitation establishments shall be guaranteed. Socio-sanitation establishments shall be submitted to the approval of the state and regulated by law.
- (3) Aged or handicapped persons shall have the right to specific measures of protection coinciding with their physical and moral needs.

#### Article 35 - Culture

- (1) Citizens shall possess a right to culture and to the respect of their cultural identity. All the communities composing the Congolese Nation shall possess the freedom to use their languages and their own culture without prejudicing those of others.
- (2) The State shall have the duty to safeguard and promote the national values of civilization, such spiritual materials as well as cultural traditions.

#### Article 36 - Intellectual Freedom and Property

The freedom of intellectual, artistic, scientific, and technological creation shall be guaranteed to each citizen. Intellectual property shall be protected by law. The sequestration, seizure, confiscation,

interdiction, and destruction of all or part of any publication, entry, or any other manner of information and communication shall only be performed in virtue of a judicial decision.

#### Article 37 - Education

- (1) Every person shall have the right to education. All instruction shall be placed under the surveillance and control of the State. The State shall strive for equal access to education and professional instruction.
- (2) Public instruction shall be free. Fundamental instruction shall be obligatory.
- (3) Scholarship shall be obligatory until the age of sixteen years.
- (4) The right to create private schools shall be guaranteed. Private school shall be submitted to the approval of the State and regulated by law.

#### Article 38 - Family

- (1) The State shall have the obligation to assist the family in its mission as guardian of the morality and traditional values recognized by the community.
- (2) The State shall have the duty to assure the protection of the Rights of the mother and infant as stipulated in the International Declarations and Conventions.

#### Article 39 - Marriage

- (1) Marriage and the family shall be under the protection of the State. The law shall fix the juridical conditions of marriage and the family.
- (2) Legal marriage shall only be contracted before the organs of the State. It shall only be concluded with the free and clear consent of the future spouses.

#### Article 40 - Children, Parents, Child Equality

- (1) Parents shall have rights and responsibilities regarding their children. Children shall have rights and duties toward their parents.
- (2) Children, whether born in or out of wedlock, shall have the same rights.

#### Article 41 - Child Education, Child Support

- (1) Children shall only be separated from their family, which shall be responsible for their education, in virtue of the law.
- (2) The mother and the child shall have the right to aid and assistance of the State.

#### Article 42 - Child Protection, Child Nationality

- (1) Every child, without a single discrimination based on race, color, sex, language, religion, national, social or ethnic origin, fortune or birth, shall have the right, on the part of his family, society, and the State to measures of protection which stem from his condition as a minor.
- (2) Every child shall be declared to the Civil State after his birth within a time period fixed by law and have a name.
- (3) Every child shall have the right to acquire a nationality.

#### Article 43 - No Child Exploitation or Labor

- (1) The State shall protect all children and adolescents from economic and social exploitation.
- (2) Child labor of those under 16 years shall be prohibited.

#### Article 44 - Youth Employment

The act of employing those under 18 years of age in those occupations of a nature compromising their morality or their health putting their lives in danger or hindering their normal development shall be sanctioned by law.

#### Article 45 - Parental Liabilities

The law shall sanction insufficiencies of parents in the matter of education and the protection of their children.

#### Article 46 - Environment

Each citizen shall have the right to a healthy, satisfactory, and enduring environment and the duty to defend it. The State shall strive for the protection and the conservation of the environment.

#### Article 47 - Waste Management, Pollution Compensation

(1) Storing, manipulating, incinerating, and discharging toxic, polluting or radio-active wastes originating in factories and other industrial or artisan units installed on the national territory shall be regulated by law.

(2) All pollution resulting from an economic activity shall give compensation for the benefit of the populations of the exploited zones.

(3) The law shall determine the nature of compensatory measures and the forms of their execution.

#### Article 48 - Polluting Liabilities

(1) The transport, importation, storage, concealment, dumping, in the continental waters and maritime space under the national jurisdiction and including the exclusive economic zone, and dispersal in the airspace, of toxic, polluting, or radioactive wastes or any other dangerous product of a foreign origin shall constitute a crime punishable by law.

(2) Any accord relative to these domains shall be prohibited.

#### Article 49 - War Crimes

War crimes, political crimes, crimes against humanity, and genocide shall be imprescriptible.

#### Article 50 - Minority Rights

The State shall guarantee the rights of minorities.

#### Article 51 - Asylum, Immigration

(1) The State shall accord the right of asylum on his territory to foreign exiles persecuted by reason of their action in favor of democracy, the fight for national liberation, or the fight against racism and apartheid, the freedom of scientific and cultural work, and for the defense of Human Rights and the Rights of Peoples conforming to laws and regulations in force.

(2) Immigration shall be submitted to the law.

#### Article 52 - Rights of Foreigners

Foreigners shall possess on the territory of the Republic of the Congo, the same rights and liberties as Congolese citizens except those enumerated in Articles 5, 6, 7, and 25, and conforming to laws and regulations in force. At all times, their right to form apolitical associations and to adhere to them shall be recognized.

#### Article 53 - Right to Peace

The Congolese people shall have the right to peace.

#### Article 54 - Right to Resources

The Congolese People shall have the inalienable imprescriptible right to possess their riches and natural resources.

#### Article 55 - Right to Development

The Congolese People shall have the right to economic, cultural, and social development.

### CHAPTER THREE

#### *DUTIES*

#### Article 56 - General Provisions

(1) Every individual shall have duties toward the family and the society, toward the State and other

legally recognized units, and toward the international community.

(2) In the exercise of his rights and in the possession of his liberties, every individual shall only be submitted to limitations established by law with a view to assure the recognition and the respect of the Rights and Liberties of others and the goal of satisfying just exigencies of moral, public order, and the general well-being in a democratic society.

#### Article 57 - Tolerance

Every individual shall have the duty to respect and consider his equals without any discrimination, and to maintain with them relations which permit promotion, safeguard, and reinforcement of respect and reciprocal tolerance.

#### Article 58 - Family, National Solidarity

Every individual shall have the duty:

- to preserve harmonious development of the family and to work in favor of its cohesion and its respect, to respect at all times his parents, to nourish and to assist them in case of necessity; and
- to preserve, at all times, the social and national solidarity and reinforce it particularly when it is menaced.

#### Article 59 - National Security

(1) Every individual shall have the duty to preserve the peace and reinforce the national independence and territorial integrity of the Fatherland and in a general manner, to contribute to the defense of the country, under conditions fixed by law.

(2) Treason, espionage for the profit of a foreign power, aiding the enemy in time of war, as well as all threats to the security of the State shall be reprimanded in conformity with the laws of the Republic.

#### Article 60 - Taxation, Duty to Work

Every individual shall be expected to work in measure with his capacities and his possibilities and to pay his due contribution fixed by law for the safeguard of the fundamental interests of Society.

#### Article 61 - Property

Every citizen shall have the duty, by his work and his conduct, to respect private property, to protect public property, and the interests of the national unit.

#### Article 62 - Public Good

(1) The public good is sacred and inviolable. All citizens shall have the duty to assure its maintenance and preservation.

(2) The law shall reprimand any act of sabotage, corruption, abuse of a public function, misdirection, dilapidation, and dissipation.

#### Article 63 - Public Office

Citizens charged with a public function or elected to a public function shall have the duty to accomplish it conscientiously and without discrimination.

#### Article 64 - Culture, Society, African Unity

Every individual shall have the duty:

- to strive, in his relations with the society, for the preservation and reinforcement of cultural values in a spirit of tolerance, dialogue, and in concert and in a general fashion, to contribute to the promotion of the moral health of the Society, to preserve and reinforce the national unity and cohesiveness when they are menaced; and
- to contribute to the best of his abilities, at all times and at all levels to the promotion and the realization of african unity.

#### Article 65 - Environment

(1) Every individual shall have the duty to contribute to the improvement of the quality of life and the



preservation of his natural milieu as well as to the protection of the environment.

(2) Also, he shall have the duty not to negatively effect his environment nor the well-being of his neighbors.

#### Article 66 - Constitution, Law, Regulations

Every citizen shall have the duty to conform himself to the Constitution, the laws, and the regulations of the Republic and to discharge his obligations toward the State and the Society.

### CHAPTER FOUR

#### *THE PRESIDENT OF THE REPUBLIC*

#### Article 67 - Head of State

(1) The President of the Republic shall be the Head of State. He incarnates the national unity and shall strive to respect the Constitution and the regular functioning of public institutions.

(2) He shall assure the continuity of the State. He is the guarantor of national independence, territorial integrity, and the respect of international treaties and accords.

#### Article 68 - Election, Term, Eligibility

(1) The President of the Republic shall be elected for five years by direct universal suffrage. He shall be re-eligible one single time.

(2) No one may be a candidate for the Office of President of the Republic if he:

- is not of native Congolese nationality;
- does not possess all his civil and political rights;
- cannot attest to profession experience of at least 15 years;
- is not in possession of good physical and mental health; or
- does not evidence good moral character.

#### Article 69 - Electoral Proceedings

(1) The President of the Republic shall be elected by an absolute majority of the votes cast. If this is not obtained in the first round of balloting, it shall be followed, the second following Sunday, by a second round. Only the two candidates having received the largest number of votes in the first round shall be presented.

(2) At the end of the second round, the candidate having won shall be elected President of the Republic.

(3) Balloting shall be opened upon convocation of the Government.

(4) The election of the new President shall take place at least twenty days and at most thirty days before the expiration of the mandate of the incumbent President.

(5) If in the seven days before the date limit for the filing of presentations of candidature, one of the persons having, less than thirty days before this date, publicly announced his decision to be a candidate dies or finds himself incapacitated, the Constitutional Council may decide to recall the election.

(6) If before the first round one of the candidates dies or finds himself incapacitated, the Constitutional Council shall pronounce the recall of the election.

(7) In the case of death or incapacitation of one of the two most favored candidates in the first round, the Constitutional Council shall declare that a new electoral operation will follow; the same shall occur in the case of death or incapacitation of one of the two candidates remaining for presentation in a second round.

(8) In all cases, the Constitutional Council shall be seated in conditions fixed in Article 143 or in those determined for the presentation of a candidate by the law prescribed in Article 68.

(9) The Constitutional Council may prorogate the time periods prescribed in Paragraph (4) and in Article 71 as long as the balloting shall take place no more than ninety days after the date of the decision of the Constitutional Council. If the application of the provisions of the present paragraph

shall have the effect of recalling the election of the present President, he shall remain in office until the proclamation of his successor.

#### Article 70 - Vacancy, Incapacity, Temporary Replacement

In the case of vacancy of the Presidency of the Republic for whatever reason, or incapacity declared by the Constitutional Council convened by the Government and deciding by an absolute majority of its members, the functions of the President of the Republic, with the exception of those relative to referendum and to the dissolution of the National Assembly, shall be provisionally exercised by the President of the Senate. If he is himself incapacitated for the exercise of these functions, by the President of the National Assembly; if he is himself incapacitated for the exercise of these functions by the Prime Minister.

#### Article 71 - New Elections

- (1) In the case of vacancy or when the incapacity is definitively declared by the Constitutional Council, the balloting for the election of the new President of the Republic shall take place, except in the case of force majeure declared by the Constitutional Council, at least 45 days and at most 90 days after the opening of the vacancy or the declaration of the definitive character of the incapacity.
- (2) In the interim, the Prime Minister shall not call into question the responsibility of the Government before the National Assembly nor may the National Assembly make use of the motion to censure.
- (3) The President of the Senate assuring the functions of the President of the Republic shall neither dismiss the Prime Minister and his Government nor proceed to amend the Constitution.

#### Article 72 - Oath

(1) When he enters office, the President of the Republic shall take the following oath: "Before the Nation and the Congolese People, the only possessors of sovereignty, I ... , President of the Republic, solemnly swear:

- to respect and defend the Constitution and the Republican form of the State;
- to loyally fulfill the high functions that the Nation has confided in me;
- to guarantee the respect of the fundamental laws of the human person and the public liberties;
- to protect and respect the public good including the natural resources and riches;
- to promote peace;
- to preserve the National Unity and the territorial integrity, the national sovereignty and independence."

(2) The oath shall be received by the President of the Constitutional Council who performs the act before the Parliament, the Constitutional Council, and the Supreme Court.

#### Article 73 - Incompatibilities

The functions of President of the Republic shall be incompatible with the exercise of any other elective mandate, any public, civil, or military employment, and any professional activity. The mandate of the President of the Republic shall be equally incompatible with any responsibility at the center of a party or a political association.

#### Article 74 - Commercial Restrictions, Declaration, Remuneration

- (1) During their term, the President of the Republic and the members of the Government shall not by themselves, nor through intermediary, purchase anything that belongs to the domain of the State.
- (2) They shall be required, when they enter office and when they leave, to make upon their honor a written declaration of all their goods and possessions and to address it to the Office of the Comptroller.
- (3) They shall not take part in public sales or purchases and adjudications for the administrations or institutions relevant to the State or submitted to their control.
- (4) They shall receive special treatment of which the amount shall be determined by law. They shall occupy an official residence.

#### Article 75 - Prime Minister, Ministers

(1) The President of the Republic shall name the Prime Minister approved by a parliamentary majority of the National Assembly. He shall end the Prime Minister's functions when the Prime Minister presents the resignation of the Government.

(2) He shall name the other members of the Government at the suggestion of the Prime Minister. He shall end their terms of office with the advice of the Prime Minister.

#### Article 76 - President and Government

The President of the Republic shall preside over the Council of Ministers.

#### Article 77 - Signing of Decrees, Nomination of Officers

The President of the Republic shall sign the decrees taken in the Council of Ministers. He shall name high political and military officer of the State in the Council of Ministers.

#### Article 78 - Promulgation, Reconsideration

(1) The President of the Republic shall promulgate laws within the twenty days which follow the transmission to the Government of the definitively adopted law.

(2) At any time, the President of the Republic may, before the expiration of this time period, demand of the Parliament a new deliberation of the law or of certain of its articles. This new deliberation shall not be refused.

(3) Following this deliberation, the President of the Republic shall be obligated to promulgate the amended law or not.

#### Article 79 - Referendum

(1) The President of the Republic can, upon the initiative of the Government during its sessions or upon the initiative of the National Assembly published in the Official Journal, submit to referendum any bill or proposition of law effecting areas susceptible to have great consequences upon the functioning of institutions or on society.

(2) When the referendum has ended in the adoption of the bill or proposition, the President of the Republic shall promulgate it within the time limit prescribed in the previous article.

#### Article 80 - Dissolution of Parliament

When the equilibrium of the public institutions is interrupted notably in the case of sharp and persistent crisis between the executive power and the Parliament, or if the National Assembly overturns the Government two times in the time of one year, the President of the Republic can, after consultation of the Prime Minister and the President of the National Assembly, pronounce the dissolution of the National Assembly.

#### Article 81 - New Elections

After the dissolution of the National Assembly, general elections shall take place within a period of forty five days.

#### Article 82 - First Session

(1) The National Assembly shall meet by right the second Tuesday following its election. If this meeting takes place outside of the periods prescribed for ordinary sessions, an extraordinary session shall open by right for a duration of fifteen days.

(2) It shall not be followed by a new dissolution in the year that follows these elections.

#### Article 83 - Ambassadors

The President of the Republic shall accredit Ambassadors and Special Envoys to Foreign Powers, Foreign Ambassadors, and Special Envoys shall be accredited to him.

#### Article 84 - Commander-in-Chief

The President of the Republic is the Commander-in-Chief of the Armed Forces. He shall preside at the High Councils and Committees of National Defense.

#### Article 85 - Right of Pardon

The President of the Republic exercises the right of pardon.

#### Article 86 - Messages to Parliament

(1) The President of the Republic shall communicate with the Parliament by messages which he shall have read and which shall not be debated.

(2) Out of session, the Parliament shall specially convene for this purpose.

#### Article 87 - Countersignatures

The Acts of the President of the Republic other than those relative to the nomination of the Prime Minister, referendum message, and submission of laws to the Constitutional Council shall be countersigned by the Prime Minister and, the case arising, by the Ministers charged with their execution.

#### Article 88 - Responsibility

The President of the Republic and the members of the Government shall be responsible for acts accomplished in the exercise of their functions in conformity with the provisions of Title VIII.

### CHAPTER FIVE

#### *GOVERNMENT AND PRIME MINISTER*

#### Article 89 - Government, Responsibility

(1) The Government shall determine and conduct the policy of the Nation.

(2) It shall control the Administration and Public Authorities.

(3) It shall be responsible before the President of the Republic and the National Assembly in the conditions and according to the procedures prescribed in Articles 75 and 122.

#### Article 90 - Prime Minister

(1) The Prime Minister is the Head of Government. He directs the action of the Government. He assures the execution of the laws. He exercises regulatory power. Under the reservation of the provisions of Article 77, the Prime Minister names civil and military employees.

(2) The law shall determine the conditions under which the Prime Minister shall establish his employees.

(3) The Prime Minister can delegate certain powers to the Ministers.

(4) He shall supplant, if need be, the President of the Republic in presiding over the Councils and Committees prescribed in Article 84.

(5) He may, in exceptional circumstances, supplant him in presiding over the Council of Ministers in virtue of an express delegation and for a fixed agenda.

(6) When he takes office, the Prime Minister shall present before the Parliament a declaration of general policy. This declaration shall not be debated, the Parliament shall take action according to it.

#### Article 91 - Countersignature

The acts of the Prime Minister shall be countersigned, if need be, by the Ministers charged with their execution.

#### Article 92 - Incompatibilities

The functions of a member of the Government shall be incompatible with the exercise of any parliamentary mandate, any office of professional representation, any public employment and any

compensated private activity, as well these functions shall be incompatible with any responsibility at the center of a political party or association.

## CHAPTER SIX

### *PARLIAMENT*

#### Article 93 - Houses, Election, Eligibility

- (1) The Parliament shall be composed of two Houses: the National Assembly and the Senate.
- (2) The Deputies of the National Assembly shall be elected by direct universal suffrage.
- (3) No one shall be elected Deputy if he has not attained the age of 25 years or if he is not a native born Congolese citizen.
- (4) Senators shall be elected by indirect universal suffrage by the Councils and Districts, Regions, Arrondissements, and Communes. No one shall be elected Senator if he has not attained the age of 50 years or if he is not a native born Congolese citizen.
- (5) The Deputies and Senators shall be re-eligible.

#### Article 94 - Term, Law on Parliament

- (1) The duration of the mandate of Deputies shall be 5 years, the duration of the mandate of Senators shall be 6 years. The Senate shall be renewable every two years by thirds. The first third to renew shall be designated by chance.
- (2) The mandate shall be unconditional. The law shall fix the repartition of seats, indemnification, conditions of eligibility, areas of ineligibility and incompatibilities to Parliament. It shall also fix the conditions in which persons called to assure in the case of the vacancy of a seat and the substitution of Deputies and Senators until a general or partial renewal.

#### Article 95 - Indemnity, Immunity

- (1) No member of Parliament shall be pursued, investigated, detained, or judged for opinions or votes express by him in the exercise of his functions.
- (2) No member of Parliament shall be, during the duration of its sessions, pursued or arrested in a criminal or correctional matter without the authorization of the House of which he is a part, except in the case of flagrante delicto.
- (3) No member of Parliament shall be, out of session, arrested or pursued without the authorization of the Bureau of the Chamber of which he is a member, except in the case of flagrante delicto, authorized cases, or definitive condemnation.
- (4) The detention or the pursuit of a member of Parliament shall be suspended if the House of which he is a part requires it.

#### Article 96 - Representative and Personal Mandate

- (1) The mandate shall be representative. Any imperative mandate shall be null and of no effect.
- (2) The right to vote in Parliament shall be personal. At all times, the delegation of a vote shall be permitted when a member of Parliament is absent for a duly declared provisional incapacity. In this case, no one may receive the delegation of more than one mandate.

#### Article 97 - Regular Sessions

- (1) The Parliament shall meet by right in three ordinary sessions per year. Each session shall have a duration of at most two months.
- (2) The first session shall open 2 March. The second session shall open 2 July. The third session shall open 15 Oct.
- (3) When the Parliament meets in congress, the Bureau of the National Assembly shall preside over the debates.

#### Article 98 - Extraordinary Sessions

- (1) The Parliament shall meet in extraordinary session at the request of the President of the Republic,

the Prime Minister, or a third of the members composing each of the Houses for a fixed agenda.  
(2) The closing shall intervene when the Parliament has extinguished the agenda for which it was convened and at most 15 days from the date of the beginning of the meeting.

#### Article 99 - Proceedings, Publicity

- (1) The sessions shall be opened and closed by the President of each House.
- (2) Each House shall establish its interior regulations and elect its established officials of at most seven members.
- (3) The meetings of the two Houses shall be public. The official record of debates shall be published in the Official Journal.
- (4) Each House may sit in closed session at the demand of the President of the Republic, the Prime Minister, or one third of its members.

#### Article 100 - Officials

- (1) The Officials of the National Assembly shall be elected for the duration of the legislature. At any time, in the case of change in the majority in course of the legislature, a new President can be elected.
- (2) The Officials of the Senate shall be elected after each partial renewal.

#### Article 101 - Initiative

- (1) The Parliament shall have the legislative initiative and alone pass the law. It shall establish taxes and pass the budget of the State and control its execution. It shall be obligated with this task at the opening of the Oct session.
- (2) It shall have the initiative of legislative and constitutional referendums.

#### Article 102 - Admission by Senate

The Senate shall concur in the election of the members of the Supreme Court and the members of the High Council of the magistrate in conformity with the provisions of Article 129.

#### Article 103 - Competences of the Senate

- (1) The Senate, other than its legislative functions, shall assure the representation of the interests of local units and socio-cultural communities.
- (2) It shall play the role of moderator and counsellor of the Nation. The provisions of the present article may be specified and completed by an organic law.

#### Article 104 - Domain of the Law

- (1) It shall be in the domain of the law:
  - the citizenship, the civic rights and fundamental guarantees accorded to citizens in the exercise of public liberties, the subjugations imposed, in the interest of the national defense, and public security of citizens, in their person and their goods;
  - the nationality, the state and the capacity of persons, matrimonial systems, successions, and liberalities;
  - the determination of crimes, misdemeanors, and contraventions of the fifth class as well as the penalties which shall be applicable to them, the organization of justice and the procedure followed before the jurisdictions and for the execution of judicial decisions, the status of the magistrate and the juridical program of the High Council of the Magistrate, ministerial offices and liberal professions;
  - the base, rate, and manner of recovering impositions of every nature, borrowing and financial engagements of the State;
  - the program for the minting of coinage;
  - the electoral program of Parliament and Local Assemblies;
  - the general status of the Public Authority;
  - the right to work and programs of social security;
  - nationalizations, denationalizations of enterprises, and the transfer of property of enterprises from the public sector to the private sector;
  - the disposition of free and charge titles of public and private goods and of the public and private

domain of the State;

- the plan for economic and social development;
- the environment and the conservation of natural resources;
- the system of ownership, of real rights, and civil and commercial obligations;
- the system of political parties and the press;
- the approval of international treaties and accords;
- the organization of the national defense;
- the administration and disposition of the domain of the State;
- the free administration of local units, their areas of competence, and their resources;
- the management of the territory;
- the mutuality, monetary system, and credit;
- the system of transport, communications, and information; and
- the penitentiary system.

(2) The law shall equally determine the fundamental principles:

- of instruction,
- of health,
- of science and technology,
- of culture, arts, and sports, and
- of agriculture, husbandry, fishing, waters and forests.

Article 105 - Budget and Planning Laws

(1) The budgetary act shall determine the resources and the allocations of the State in the conditions prescribed by an organic law.

(2) Planning laws shall fix the objectives of economic and social action of the State and the Organization of production.

Article 106 - Declaration of War

The declaration of war by the President of the Republic shall be authorized by the Parliament convened in congress.

Article 107 - Regulatory Domain

Matters other than those which are of the domain of the law shall be of the regulatory domain.

## CHAPTER SEVEN

### *RELATIONS BETWEEN PARLIAMENT AND GOVERNMENT*

Article 108 - Government and Parliament

(1) Members of the Government shall have access to the Parliament and its commissions. They shall be heard at the demand of a member of Parliament, of a commission, or at their own request.

(2) They can be assisted by colleagues.

(3) In the case of the absence of a titled Minister, his intermediary shall replace him.

Article 109 - State of Emergency and Siege

(1) When it appears that an imminent peril resulting in grave results to public order or in the case of events presenting themselves, by their nature and their gravity, the character of the public calamity or national disaster, the President of the Republic may decree in the Council of Ministers a state of emergency over a part or the whole of the national territory.

(2) When it appears an imminent peril resulting either from a menace of foreign character, or an insurrection of the Armed Forces, or grave events occurred despite the state of emergency, the President of the Republic may declare in the Council of Ministers a state of siege.

(3) In both cases, the Parliament shall meet by right if it is not in session in order to appreciate the legality of the decision of the President of the Republic.

(4) The extension of the state of siege or the state of emergency for more than fifteen days shall only

be authorized by the Parliament.

(5) The law shall determine the manner of application of the present article.

#### Article 110 - Legislation Procedure

(1) The initiation of legislation belongs concurrently to the Government and to the members of Parliament.

(2) Bills shall be deliberated in the Council of Ministers after the advice of the Supreme Court and filed with the office of one of the other Houses by the Prime Minister.

(3) Budgetary acts shall be submitted first to the National Assembly.

(4) Propositions of law which are stopped by Parliament shall be, before deliberation and vote, addressed for information to the Government.

#### Article 111 - Budgetary Impact Laws

Propositions and amendments filed by the members of Parliament shall not be acceptable when the adoption would have in consequence either a diminution of the public resources, or the creation or aggravation of a public obligation, at least when they are not accompanied by a proposition for the augmentation of revenues or corresponding economizing.

#### Article 112 - Irreceivability of Bills

(1) Bills, propositions, and amendments which are not of the domain of the law are not receivable.

(2) Irreceivability shall be pronounced by the President of the interested House after deliberation of the office.

(3) In the case of contestation on Paragraph (1), the Constitutional Council, seated by the President or the interested

House, or by the Government shall decree within a period of eight days.

#### Article 113 - Discussion, Vote

The discussion of bills shall occur, before the convened House, upon the text presented by the Government. One House convened to consider a text passed by the other House shall vote upon the text transmitted to it.

#### Article 114 - Special and Permanent Commissions

(1) Bills and propositions of law shall be at the demand of the Government or the House seated to review it, sent for examination to commissions specially designated for this purpose.

(2) Bills and propositions of law for which such a demand has not been made shall be sent to one of the Permanent Commissions of which the number shall be determined by the Internal Regulations of each House.

#### Article 115 - Right of Amendment

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

#### Article 116 - Joint Commission, Definitive Decree

(1) Every bill or proposition of law shall be examined successively in both Houses with a view of adoption of an identical text.

(2) When, followed by a disagreement between the two Houses, a bill or proposition of law cannot be adopted after a reading by each House, the Prime Minister shall have the ability to provoke the reunion of a joint commission charged with proposing a text on the provisions remaining in discussion.

(3) The text elaborated upon by the Joint Commission may be submitted by the Government for approval of both Houses.

(4) If the Joint Commission cannot arrive at the adoption of a common text, the Government may after a new reading by the National Assembly and by the Senate, demand of the National Assembly a definitive decree.

(5) In this case, the National Assembly may take up either the text elaborated by the Joint



Commission, or the last text passed by it, modified, if such be the case, by one or several amendments adopted by the Senate.

#### Article 117 - Organic Laws

(1) Laws to which the Constitution gives the character of organic laws, except the budgetary act, shall be voted and modified in the following conditions:

- The bill or proposition shall only be submitted to deliberation and vote of the first House after the expiration of a period of fifteen days after its filing.

- The procedure of Article 116 shall be applicable. At all times lacking agreement between the two Houses, the text shall only be adopted by the National Assembly at its last reading by an absolute majority of its members.

- Organic laws relative to the Senate shall be passed in the same terms by both Houses.

(2) Organic laws shall only be promulgated after a declaration by the Constitutional Council of their conformity to the Constitution.

#### Article 118 - Budgetary Act

(1) The budgetary act for the year comprising the report and explicative annexes shall be filed and distributed 15 Oct at the latest of the year which precedes the year of execution of the budget. It shall be immediately returned to a Parliamentary Commission.

(2) The National Assembly shall decide upon the first reading within a period of fifteen days after the filing of the budgetary act.

(3) If the National Assembly has not announced a vote in the first reading upon the act within the period here stated, the Government shall obligate the Senate to an amended initial text. The Senate shall decide within a period of fifteen days on the first reading.

(4) If the Senate does not decide in the period here stated, the National Assembly shall be obligated with the budgetary act. This law shall only contain strictly financial provisions.

(5) If after the last reading of the Senate the budgetary act has not been adopted, the President of the Republic shall convene the Parliament in extraordinary session.

(6) The budgetary act shall be passed 31 Dec at the latest.

#### Article 119 - Assistance of Comptroller's Office

(1) An organic law shall regulate the mode of presentation of the budget. The Parliament shall regulate the accounts of the State. It shall be assisted in this task by the Comptroller's Office.

(2) The National Assembly can charge the Comptroller's Office with all inquiries and studies coinciding with the execution of the public receipts and expenses or with the administration of the treasury.

#### Article 120 - Regulatory Bill

The regulatory bill shall be filed and distributed at the latest at the end of the year that follows the year of execution of the budget.

#### Article 121 - Agenda, Urgency

(1) The agenda of each House shall comprise the bills and propositions in the order of their filing with the Office of the House so charged.

(2) At all times, the bills and propositions of law recognized as urgent may be examined in priority.

#### Article 122 - Declaration of Policy, Motion of Censure

(1) The Prime Minister, after the deliberation of the Council of Ministers, shall engage before the National Assembly the responsibility of the Government on its program or eventually upon a declaration of general policy.

(2) The National Assembly shall put in question the responsibility of the Government by the passage of a motion of censure. Such a motion shall only be receivable if it is signed by a tenth of the members of the National Assembly. The passage shall only take place forty eight hours after its filing. Only the favorable votes to the motion shall be counted which can only be adopted by an absolute majority of

the members composing the Assembly. If the motion of censure is rejected, these signatories shall not propose a new one in the course of the same session, except in the case prescribed in the above article.  
(3) The Prime Minister can, after deliberation of the Council of Ministers, engage the responsibility of the Government before the National Assembly upon the passage of a text. In this case, this text shall be considered as adopted; except if a motion of censure, filed in the twenty four hours which follow, is passed in the conditions prescribed in the preceding paragraph.

#### Article 123 - Resignation of Government

When the National Assembly has adopted a motion of censure or when it disapproves of the program or a declaration of general policy of the Government, the Prime Minister shall remit to the President of the Republic the resignation of the Government.

#### Article 124 - Delay for Motion of Censure

The closure of ordinary and extraordinary sessions shall be by right delayed in order to permit, if need be, the application of the provisions of Article 122.

#### Article 125 - Interpellations

(1) The Government shall be obligated to furnish to Parliament all explanations which are demanded of it on its administration and its activities.

(2) The means of information and control of Parliament over the Government shall be:

- interpellation,
- written question,
- oral question,
- commission of inquiry,
- motion of censure, and
- audition in commission.

(3) These means shall be exercised in the conditions determined by the Interior Regulation of each House.

## CHAPTER EIGHT

### *THE HIGH COURT OF JUSTICE*

#### Article 126 - Institution, Presidency, Procedure

(1) A High Court of Justice shall be instituted. The High Court of Justice shall be composed of members elected at the center of and in equal numbers by Parliament and the Supreme Court.

(2) The President of the High Court of Justice shall be elected by his peers.

(3) The Law shall fix the composition of the High Court of Justice, the rules of its functioning as well as the applicable procedure before it.

#### Article 127 - High Treason of President

(1) The President of the Republic shall be responsible for the acts committed in the exercise of his functions in the case of high treason.

(2) In this case, he shall be arraigned before the High Court of Justice by Parliament decreeing by a two thirds majority of its members.

#### Article 128 - Competences

(1) The High Court of Justice shall be competent to judge the President of the Republic, the Members of Government, Members of Parliament, Members of the Supreme Court, Members of the High Council of the Magistrate, and the Heads of Courts for reason of acts qualified as crimes and misdemeanors committed in the exercise of their functions as well as in order to judge their accomplices in the case of a plot against the security of the State.

(2) In the case prescribed in the preceding paragraph, the High Court shall be confined by the definition of crimes and misdemeanors as well as by the determination of penalties such that they

result from the penal laws in effect at the moment when the acts were committed.  
(3) The arraignment shall be conducted in conformity with Paragraph (2).

## CHAPTER NINE

### *JUDICIAL AUTHORITY*

#### Article 129 - Supreme Court, Independence

- (1) Judicial Authority shall be exercised by the Supreme Court and the other national jurisdictions created by law.
- (2) It shall be independent of the Executive Authority and the Legislative Authority.
- (3) The Supreme Court shall consist of Magistrates elected by Parliament convened in congress in conditions fixed by law.
- (4) The members of the Supreme Court shall be irremovable. They shall continue in function until the age of retirement, except in the case of condemnation for crimes and misdemeanors, indignity, insanity, resignation, death, or definitive incapacity.
- (5) The law shall fix the organization, the composition, and the functioning of the Supreme Court.

#### Article 130 - No Modification or Influence

- (1) The Legislative Authority shall neither decree upon contestations, nor modify a decision of justice.
- (2) Any law of which the goal is to furnish a solution to an ongoing process shall be prohibited.

#### Article 131 - No Influence of Executive

The Executive Authority shall neither decree upon contestations, nor impede the courts of justice, nor oppose the execution of a judicial decision.

#### Article 132 - No Intrusion Into Other Powers

The Judicial Authority shall neither incrementally intrude upon the attributes of the Legislative Authority nor upon those of the Executive Authority.

#### Article 133 - Decisions, Magistrates

- (1) The Judicial Authority shall decree upon the actions born of the application of the law and regulation. Its decisions shall be rendered in the name of the Congolese People.
- (2) A law shall define the status of Magistrates.

#### Article 134 - Elections of Magistrates

- (1) The Magistrates shall be instituted by the High Council of the Magistrate presided over by the President of the Republic.
- (2) It shall consist of the President of the Supreme Court, Member by right, and the Magistrates elected by the Parliament convened in congress in conditions fixed by law.

#### Article 135 - High Council of the Magistrates

- (1) The High Council of the Magistrate shall be the guarantor of the independence of the Judicial Authority.
- (2) On proposition of the High Council of the Magistrate, the President of the Republic shall name the Magistrates to their seats and tribunals.
- (3) The law shall fix the organization, composition, and the functioning of the High Council of the Magistrate.

#### Article 136 - Disciplinary Authority

- (1) The High Council of the Magistrate shall decree as Disciplinary Council and as the organ of the carriers of the Magistrates.
- (2) It is thus presided over by the First President of the Supreme Court.

Article 137 - Guardianship of Individual Liberties

(1) No one shall be arbitrarily detained.

(2) The Judicial Authority, guardian of individual liberties, shall assure the respect of this principle in conditions fixed by law.

CHAPTER TEN

*CONSTITUTIONAL COUNCIL*

Article 138 - Institution

A Constitutional Council shall be instituted.

Article 139 - Members, Eligibility, Renewal, Oath

(1) The Constitutional Council shall consist of nine members distributed as follows:

- two Magistrates elected by the High Council of the Magistrate;
- two Law Professors from the University elected by their peers;
- two Lawyers elected by their peers; and
- three members named proportionally one by the President of the Republic, by the President of the National Assembly, and by the President of the Senate.

(2) The members of the Constitutional Council, irrespective of their mode of designation, shall attest to a professional experience of at least fifteen years.

(3) The Constitutional Council shall be renewed by thirds every two years.

(4) When they take office, the members of the Council shall take an oath before the Parliament convened in Congress.

Article 140 - President of the Council

(1) The President of the Constitutional Council shall be elected by his peers for a duration of two years renewable.

(2) He shall have the deciding voice in the case of an equal division of voices.

Article 141 - Incompatibilities

The functions of a member of the Constitutional Council shall be incompatible with those of a Minister or a member of Parliament. Other incompatibilities shall be fixed by law.

Article 142 - Competences

(1) The Constitutional Council shall assure the control of the constitutionality of laws, international treaties and accords.

(2) It shall be the principle regulator of the activities of public authorities.

Article 143 - Control of Presidential Elections

The Constitutional Council shall ensure the regularity of the election of the President of the Republic, it shall examine contestations and proclaim the results of balloting.

Article 144 - Control of Parliamentary and Local Elections

The Constitutional Council shall decree in the case of contestation upon the regularity of legislative and local elections.

Article 145 - Control of Referenda

The Constitutional Council shall ensure the regularity of the operations of referendum and proclaim their results.

Article 146 - Advice on Constitutionality of Legislation

Treaties, Bills, and Propositions of law before their ratification or their adoption by Parliament shall be

submitted for advise by the Government to the Constitutional Council which shall pronounce upon their conformity to the Constitution.

#### Article 147 - Submission of Laws for Control

(1) Organic laws and the interior regulations of the National Assembly, Senate, and Local Councils shall before their being applied, be submitted to the Constitutional Council which shall pronounce upon their conformity to the Constitution.

(2) To the same end, laws before their promulgation may be deferred to the Constitutional Council by the President of the Republic, the Prime Minister, the President of the National Assembly, the President of the Senate, the President of the Supreme Court, the President of the High Council of Information and Communication, the Presidents of Local Councils, or a third of the Deputies or Senators.

(3) In the two cases prescribed in the preceding paragraphs, the Constitutional Council shall decree within a period of one month. Always, at the express demand of the initiator, this period may be reduced to ten days if urgency exists.

(4) In these cases, the consideration of the Constitutional Council suspends the period of promulgation or publication.

#### Article 148 - Review on Individual Application

(1) Any person can address the Constitutional Council to the Constitutionality of Laws, either directly, or by the procedure of unconstitutional exception invoked before a jurisdiction in an affair which concerns him.

(2) In the case of unconstitutional exception, the jurisdiction shall delay to decree and give to the initiator a period of one month from the notification of the decision.

#### Article 149 - Binding and Final Force

The decisions of the Constitutional Council shall not be susceptible to any recourse. They impose themselves upon public powers, all public authorities, judiciaries, and particularities.

#### Article 150 - Unconstitutional Provisions

A provision declared unconstitutional shall not be promulgated nor given effect.

#### Article 151 - Law on Procedure

The law shall determine the rules of organization of functioning of the Constitutional Council, the procedure, and notably the periods within which contestations must be brought.

### CHAPTER ELEVEN

#### *ECONOMIC AND SOCIAL COUNCIL*

#### Article 152 - Institution

An Economic and Social Council shall be instituted.

#### Article 153 - Competences

(1) The Economic and Social Council shall be, according to its public powers, a consultative assembly.

(2) It may upon its own initiative examine any problem of a economic or social character interesting the Republic of the Congo.

(3) It may also be seated by the President of the Republic, the Prime Minister, the President of the National Assembly, and the President of the Senate.

(4) The Council may equally be consulted on projects of international treaties and agreements, bills and propositions of law as well as on projects and decrees by reason of their economic or social character.

(5) The Council shall be obligatorily seated with any bill, programming project, or plan of development of an economic or social character except for the budget of the State.

#### Article 154 - Incompatibilities

The office of a member of the Economic and Social Council shall be incompatible with those of a Member of Parliament, Minister, Member of the Constitutional Council, Prefect, Mayor, Sub-Prefect, Head of PCA, and local Councillor.

#### Article 155 - Law on Composition and Procedure

The composition, organization, and functioning of the Economic and Social Council shall be fixed by law.

### CHAPTER TWELFE

#### *HIGH COUNCIL OF INFORMATION AND COMMUNICATION*

#### Article 156 - Institution

A High Council of Information and Communication shall be instituted.

#### Article 157 - Competences

(1) The High Council of Information and Communication shall strive to ensure the respect of rules of professional responsibility guarantee the freedom of information, of the press, and the pluralist expression of public opinion.

(2) It shall regulate the relations of communication between the public powers, organs of information, and the public, give technical advice, and recommendations on questions touching the domain of information and communication.

#### Article 158 - Composition, Eligibility

(1) The High Council of Information and Communication shall be composed of eleven members of which three shall be elected from among professionals, two named by the President of the Republic, three by Parliament convened in Congress, and one elected by scientific and intellectual Associations, one elected by civil Associations, one elected by Consumer Associations.

(2) The members shall attest to a professional experience of at least ten years.

#### Article 159 - Election

The High Council of Information and Communication shall elect its office from among its members.

#### Article 160 - Organizational Law

The organization and the functioning of the High Council of Information and Communication shall be fixed by law.

### CHAPTER THIRTEEN

#### *PUBLIC FORCE*

#### Article 161 - Forces, Personnel

(1) The Public Force shall be composed of the National Police, the National Guard, and the Congolese Armed Forces.

(2) The law shall fix their organization and their functioning as well as the special status of Police, National Guard, and Armed Forces personnel.

#### Article 162 - Apolitical Nature, Subordination, Activation

(1) The Public Force shall be apolitical. It is submitted to the laws and regulations of the Republic. It

is instituted in the general interest. No one shall utilize it to particular ends.

(2) The Public Force shall be subordinate to the civil authority. It shall only act within the order of laws and regulations.

(3) Conditions of activation shall be fixed by law.

#### Article 163 - National Police

The National Police shall be a civil force of a paramilitary character. Its action shall be exercised in day as well as night on the national territory of the Republic in respect of fundamental liberties and Human Rights.

#### Article 164 - National Guard

The National Guard shall be a force of a military and civil nature; its action shall be exercised on the territory of the Republic and in respect of fundamental liberties and Human Rights.

#### Article 165 - Missions of Police and Guard

The National Police and the National Guard shall have for missions to:

- assure the respect of the administrative laws and regulations of the Police and the Police judiciary;
- strive for the security and the protection of persons and public goods;
- strive for public tranquility and order;
- assure the maintenance and reestablishment of public order; and
- strive for the security of the State.

#### Article 166 - Division of Competences

The law shall determine the division of competencies between the Police and the National Guard.

#### Article 167 - Armed Forces

Military defense shall be assured by a National Armed Forces called the Congolese Armed Forces, in short "F.A.C."

#### Article 168 - Mission of the Armed Forces

(1) The Congolese Armed Forces have the mission to defend the integrity of the national territory against any form of exterior armed aggression.

(2) The Congolese Armed Forces shall participate in the economic, social, and cultural development in conditions fixed by laws and regulations.

### CHAPTER FOURTEEN

#### *LOCAL UNITS*

#### Article 169 - Establishment

Local Units of the Republic of the Congo shall be determined by law.

#### Article 170 - Personality, Autonomy, Councils

(1) The Local Units shall have legal personality. They shall possess administrative, patrimonial, financial, economic, cultural, and social autonomy.

(2) Local Units shall have for deliberative organs, Councils elected by direct universal suffrage which shall name at their center one or several executive offices.

#### Article 171 - Organizational Law

The law shall determine the juridical status, the powers, the attributes, and the functioning of the Local Units and their relations with the central authorities.

## CHAPTER FIFTEEN

### *INTERNATIONAL TREATIES AND AGREEMENTS*

#### Article 172 - Negotiation, Ratification, Referendum

- (1) The President of the Republic negotiates, signs, and ratifies treaties.
- (2) Ratification shall only intervene after the authorization of Parliament notably in that which concerns Peace Treaties, Defense Treaties, Commercial Treaties, Treaties relative to natural resources, or Accords relative to international organization, those which engage the finances of the State, those which modify the provisions of a legislative nature, those which are relative to the state of persons, those which include cession, exchange, or addition of territory.
- (3) No cession, exchange, or addition of territory shall be valid without the consent of the Congolese people called to pronounce by way of referendum.

#### Article 173 - Information On Non-Ratification Treaties

- (1) The President of the Republic and the Parliament shall be informed of all negotiation leading to the conclusion of the international Accord not submitted to ratification.
- (2) The law shall determine the Accords not subject to the procedure of ratification.

#### Article 174 - Authorization

With the exception of the President of the Republic, the Prime Minister, and the Minister of Foreign Affairs, any representative of the Congolese State shall for adoption or authentication of an international engagement, produce clear proof of his appropriate powers.

#### Article 175 - Supremacy of the Constitution

If the Constitutional Council has declared that an international engagement contains a clause contrary to the Constitution, authorization to ratify or approve it shall only intervene in the case of revision of the Constitution.

#### Article 176

Treaties and Accords regularly ratified or approved shall have, from their publication, an authority superior to that of laws under the reserve for each Accord or Treaty, of its application by the other party.

#### Article 177 - Intergovernmental Associations

- (1) The Republic of the Congo may conclude Accords of association with other States.
- (2) It shall accept to create with these other States intergovernmental organizations of common administration, coordination, free cooperation, and integration.

## CHAPTER SIXTEEN

### *AMENDMENT OF THE CONSTITUTION*

#### Article 178 - Initiative, Majority, Referendum, Restrictions

- (1) The initiative of amendment of the Constitution shall belong concurrently to the President of the Republic, the Government, and Members of Parliament.
- (2) The conditions of initiative shall be determined by an organic law.
- (3) The bill or proposition of amendment of the Constitution shall be passed by the two Houses convened in Congress by a two thirds majority. The amendment shall be definitive after having been approved by referendum.
- (4) No procedure of amendment shall be engaged in or followed when it attempts to touch the integrity of the territory.
- (5) The republican form, the secularity of the State, and the number of mandates of the President of the Republic shall not be the object of any amendment.



(6) Amendment shall not have the object of the reduction or the abolition of fundamental rights and liberties enunciated in Title II.

## CHAPTER SEVENTEEN

### *TEMPORARY AND FINAL PROVISIONS*

#### Article 179 - Transitional Institutions

- (1) The institutions of the Republic prescribed by the present Constitution shall be effective at the end of the period of transition conforming to Article 89 of the Fundamental Act.
- (2) The duration of their mandate shall run from their definitive effectuation.
- (3) The President of the Republic, the High Council of the Republic, and the Transitional Government shall continue to exercise their functions until the installation of the new institutions in conformity with Article 88 of the Fundamental Act.
- (4) The attributes conferred upon the Constitutional Council by the provisions contained in Title X shall be exercised until the effectuation of this Council by the Supreme Court.

#### Article 180 - Viable Old Laws

The laws and regulations now in force, when they are not contrary to the present Constitution, shall remain applicable so long as they have not been modified or abrogated.

#### Article 181 - Referendum, Publication, Effectuation

- (1) The present Constitution which abrogates any of the provisions previously contrary, shall be submitted to the approval of the people by way of referendum, published in the Official Journal as the supreme law of the Republic.
- (2) It shall become effective at the moment of the definitive effectuation of new democratic institutions.