



# **The Constitution Of Burundi**

## **THE POST-TRANSITION INTERIM CONSTITUTION OF THE REPUBLIC OF BURUNDI, 2004<sup>[1]</sup>**

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WE, MEMBERS OF THE TRANSITIONAL NATIONAL ASSEMBLY AND THE TRANSITIONAL SENATE  
CONVENED IN CONGRESS AND ACTING ON BEHALF OF THE BURUNDIAN PEOPLE:

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## **PREAMBLE**

Conscious of our responsibilities and duties before history and the future generations;

Reaffirming our faith in the ideal of peace, reconciliation and national unity in accordance with the *Agreement of Arusha for Peace and Reconciliation in Burundi of August 28, 2000* and with the *Cease-Fire Agreements*;

Considering the necessity to restore a pluralist democratic order and a state under the rule of law;

Proclaiming our commitment to the respect of the fundamental rights of the individual as they result in particular from the *Universal Declaration of Human Rights of December 10, 1948*, the *International Covenants on Human Rights of December 16, 1966* and the *African Charter on Human and Peoples' Rights of June 18, 1981*;

Considering our commitment to social peace and justice;

Conscious of the imperative need to promote the economic and social development of our country and to safeguard our national culture;

Reaffirming our determination to defend the sovereignty and the political and economic independence of our country;

Affirming the importance of the right of self-determination of the peoples in international relations;  
Considering that the relations between peoples must be characterized by peace, friendship and cooperation in conformity with the *Charter of the United Nations of June 26, 1945*;

Reaffirming our commitment to the cause of African unity in accordance with the *Constitutive Act of the African Union of May 25, 2002*;

Reaffirming our unshakable resolve to put an end to the underlying causes of the continued state of ethnic and political violence, genocide and exclusion, bloodshed, insecurity and political instability, which have plunged the people into depression and suffering and constitute a grave threat to the prospects (*perspectives*) for economic development and the achievement of equality and social justice in our country;

Considering that in order to achieve this result, the following constitutional and legal principles must be guaranteed:

- The establishment and the implementation of a democratic system of governance;
- The inclusion of the minority political parties into the general system of good governance;
- The protection and inclusion of the ethnic, cultural and religious minority groups into the general system of good governance;
- The restructuring of the national security and justice system in order to guarantee the safety of all Burundians, including the ethnic minorities.

Reaffirming our commitment to establish a political order and a system of government inspired by the realities of our country and based upon the values of justice, democracy, good governance, pluralism, the respect of the fundamental rights and freedoms of the individual, unity, solidarity, mutual understanding, tolerance and cooperation between the different ethnic groups of our society;

SOLEMNLY ADOPT THIS POST-TRANSITION INTERIM CONSTITUTION WHICH IS THE BASIC LAW OF THE REPUBLIC OF BURUNDI.

## **TITLE I**

### **THE STATE AND THE SOVEREIGNTY OF THE PEOPLE**

#### **Chapter 1**

#### **General Principles**

##### ***Article 1***

Burundi is an independent, sovereign, secular, democratic, unitary Republic which respects its ethnic and religious diversity.

##### ***Article 2***

The national territory of Burundi is inalienable and indivisible.

##### ***Article 3***

Burundi is subdivided into provinces, municipalities (*les communes*), zones and hills (*les collines*), and any other subdivisions provided for by the law. Their organization and operation are determined by the law. It may modify their boundaries and their number.

##### ***Article 4***

The status and the restoration of the monarchy may be subject to a referendum. Every party which works peacefully for the restoration of the monarchy has the right to operate.

**Article 5**

The national language is Kirundi. The official languages are Kirundi and the other languages determined by law.

The original version of all legislative texts must be in Kirundi.

**Article 6**

The principle of the Republic of Burundi is the government of the people, by the people and for the people.

**Article 7**

The national sovereignty belongs to the people who exercise it either directly by way of referendum or indirectly through its representatives.

No section of the people nor any individual may attribute its exercise to itself or to himself.

**Article 8**

Suffrage is universal, equal, free and transparent. It may be direct or indirect under the conditions specified by the law.

Pursuant to the conditions determined by the electoral code, all Burundians are entitled to vote who are eighteen (18) years old and are in possession of their civil and political rights.

**Article 9**

The capital of Burundi is established at Bujumbura. The law may transfer it to any other location in the Republic.

**Article 10**

The flag of Burundi is tricolor: green, white and red. It has the form of a rectangle divided by two crossed diagonals comports in its center a white disc with a stamp representing three, red six-pointed stars forming a fictive equilateral triangle within a fictive circle having the same center as the disc and whose base is parallel to the length of the flag.

The law specifies the dimensions and other details of the flag.

**Article 11**

The motto of Burundi is *Unity, Work, Progress*. The emblem of the Republic is a shield stamped with a lion's head and three lances, surrounded in its entirety by the national motto.

The national anthem is "Burundi Bwacu."

The seal of the Republic is determined by law.

**Article 12**

The quality of [being] Burundian is acquired, retained and lost in accordance with the conditions determined by the law.

Children descendent from Burundian men or women have the same rights with regard to the law on nationality.

**Chapter 2**  
**The Fundamental Values**

**Article 13**

All Burundians are equal in [their] merits and dignity. All citizens have the same rights and are entitled to the same protection of the law. No Burundian will be excluded from the social, economic or political life of the nation because of his race, language, religion, sex or ethnic origin.

**Article 14**

All Burundians have the right to live in Burundi in peace and security. They must live together in harmony, while respecting human dignity and tolerating their differences.

**Article 15**

The Government is based on the will of the people. It is responsible to it and respects [the people's] fundamental rights and liberties.

**Article 16**

The Burundian Government must be composed in such a manner that all Burundians are represented in it and that it represents them all; that every one has equal opportunities to be a part of it; that all citizens have access to the public services and that the decisions and actions of the Government enjoy the largest possible support.

**Article 17**

The Government has the task to achieve the aspirations of the Burundian people, and in particular to heal the divisions of the past, to improve the quality of life of all Burundians and to guarantee to all the possibility to live in Burundi free from fear, discrimination, disease or famine.

**Article 18**

The function of the political regime is to unite, reassure and reconcile all Burundians. This regime must ensure that the Government that is established is at the service of the Burundian people, the source of its power and authority.

The Government respects the separation of powers, the primacy of the law and the principles of good governance and transparency in the conduct of public affairs.

## TITLE II THE CHARTER OF FUNDAMENTAL RIGHTS AND DUTIES OF THE INDIVIDUAL AND THE CITIZEN

### **Article 19**

The rights and duties proclaimed and guaranteed, among others, by the *Universal Declaration of Human Rights*, the *International Covenants on Human Rights*, the *African Charter on Human and Peoples' Rights*, the *Convention on the Elimination of all Forms of Discrimination against Women* and the *Convention on the Rights of the Child* are an integral part of the Constitution of the Republic of Burundi. These fundamental rights are not subject to any restriction or derogation, except in certain circumstances which can be justified by the general interest or the protection of a fundamental right.

### **Article 20**

All citizens have rights and obligations.

## Chapter 1 The Fundamental Rights of the Individual and the Citizen

### **Article 21**

Human dignity is respected and protected. Any violation of human dignity is sanctioned (*réprimée*) by the Penal Code.

### **Article 22**

All citizens are equal before the law, which provides them with equal protection.

No one may be subject to discrimination because of their origin, race, ethnicity, sex, color, language, social situation or his religious, philosophical or political convictions or because of a physical or mental handicap or because they are suffering from HIV/AIDS or any other incurable disease.

### **Article 23**

No one shall be treated arbitrarily by the State or its agents.

The State has the obligation to compensate any person who has been the victim of arbitrary treatment by it or by its agents.

### **Article 24**

Every woman, every man has the right to life.

### **Article 25**

Every woman, every man has the right to liberty of the person, in particular to physical and emotional integrity and to freedom of movement. No one will be subjected to torture, nor to cruel, inhuman or degrading punishments or treatments.

**Article 26**

No one will be held in slavery or in servitude. Slavery and slave trading are prohibited in all their forms.

**Article 27**

The State will do its utmost to make sure that all citizens have the means to lead a life in accordance with human dignity.

**Article 28**

Every woman, every man has the right to respect for his private and family life, his home and his personal communications.

**Article 29**

The right to marry is guaranteed, as is the right to choose one's partner. The marriage can only be concluded with the free and full consent of the future spouses.

The marriage between two persons of the same sex is prohibited.

**Article 30**

The family is the natural basis of society. The marriage is its legitimate pillar. Family and marriage are placed under the special protection of the State.

Parents have the natural right and duty to educate and raise their children. They are supported in this task by the State and the public entities.

Every child has the right to special measures of protection, apart from his family, society and the State, which are required by his condition as a minor.

**Article 31**

The freedom of expression is guaranteed. The State respects the freedom of religion, thought, conscience and opinion.

**Article 32**

The freedom of assembly and association is guaranteed, as is the right to establish associations or organizations in accordance with the law.

**Article 33**

All Burundian citizens have the right to move freely and to establish their domicile in any part of the national territory, as well as the right to leave and to re-enter it.

**Article 34**

No one may be deprived arbitrarily of their nationality, nor of their right to change it.

**Article 35**



The State guarantees the sound management and the efficient exploitation of the natural resources of the country, while preserving the environment and [ensuring] the conservation of these resources for the future generations.

**Article 36**

Every person has the right to property.

No one may be deprived of their property except for reasons of public utility, in the cases and in the manner established by law and in return for a just and prior compensation (*la préalable indemnité*) or in execution of a binding court order enforcing a judicial decision.

**Article 37**

The right to establish trade unions and to join them, as well as the right to strike, are recognized. The law may regulate the exercise of these rights and may prohibit certain categories of persons to go on strike.

In all cases, these rights are denied to the members of the defense and security forces.

**Article 38**

Every person is entitled, in judicial or administrative proceedings, to a fair hearing of his cause and to a judgement within a reasonable period of time.

**Article 39**

No one may be deprived of their liberty except by virtue of the law.

No one may be indicted, arrested, detained or judged except in the cases determined by a law which has been promulgated prior to the commission of the acts with which they are charged.

The right to defense is guaranteed before any jurisdiction.

No one may be removed, against their will, from the jurisdiction of their lawful judge.

**Article 40**

Every person accused of an unlawful act is presumed innocent until guilt has been legally established in the course of a public process, during which all the guarantees necessary to the person's free defense have been provided.

**Article 41**

No one may be convicted for acts or omissions which, at the time they were committed, did not constitute an infraction.

In the same way, no punishment more severe than that which was applicable at the time the infraction was committed may be inflicted.

**Article 42**

No one may be subjected to security measures except in such cases and forms specified by the law, especially for reasons of public order or the security of the State.

**Article 43**

No one may be subject to arbitrary interference with their private life, family, home or correspondence, nor to attacks on their honor and reputation.

House searches or intrusions into the home may not be ordered except in the forms and conditions provided by law.

Secrecy of correspondence and communication is guaranteed with respect for the forms and conditions determined by law.

**Article 44**

Every child is entitled to special measures which ensure or improve the care necessary for his well-being, health, physical integrity, and the protection against maltreatment, unreasonable demands or exploitation.

**Article 45**

No child may be directly employed in an armed conflict. The protection of children in times of armed conflict is guaranteed.

**Article 46**

No child may be detained except as a measure of last resort, in which case the detention shall be as short as possible.

Every child is entitled to be separated from detainees older than sixteen (16) years of age and to treatment and detention conditions which correspond to his age.

**Article 47**

Any restriction of a fundamental right must have a legal basis; it must be justified by the general interest or the protection of another person's fundamental right; and it must be proportionate to its envisaged aim (*au but visé*).

**Article 48**

The fundamental rights must be respected throughout the whole legal, administrative and institutional order. The Constitution is the supreme law. The legislative, the executive and the judiciary have to enforce it. Any law which is not in conformity with the Constitution is void.

**Article 49**

No citizen may be forced into exile.

**Article 50**

The right of asylum is recognized in the conditions defined by the law.

Extradition is authorized only within the limits specified by law.

No Burundian may be extradited abroad except if he is prosecuted by an international criminal jurisdiction for a crime of genocide, a war crime or other crimes against humanity.

**Article 51**

Every Burundian has the right to participate, either directly or indirectly through representatives, in the direction and management of the affairs of the State, subject to the legal conditions, namely those concerning age and [civil] capacity.

Every Burundian has, equally, the right of access to the public functions of his country.

**Article 52**

Every one is entitled to obtain the satisfaction of economic, social and cultural rights indispensable to the dignity and to the free development of the person, as a result of the national effort and in accordance with the resources of the country.

**Article 53**

Every citizen has the right of equal access to instruction, to education and to culture.

The State has the duty to organize public education and to facilitate access to it.

However, the right to establish private schools is guaranteed in the conditions established by the law.

**Article 54**

The State recognizes the right of all citizens to work and seeks to create conditions which allow for the effective exercise of this right. It recognizes the right for every person to enjoy fair and satisfactory working conditions and guarantees to the worker the adequate remuneration for his services or his work.

**Article 55**

Every person has the right of access to health care services.

**Article 56**

The State has the duty to favor the development of the country and, in particular, the rural development.

**Article 57**

Equally competent persons have the right to equal pay for equal work, without any discrimination.

**Article 58**

Every person is entitled to the protection of his moral and material interests resulting from any scientific, literary or artistic production of which that person is the author.

**Article 59**

Every foreigner in the territory of the Republic enjoys the protection granted to persons and property by virtue of the present Constitution and of the law.

A foreigner who is prosecuted for the crime of genocide, a crime against humanity, a war crime or an act of terrorism may be extradited.

**Article 60**

The judiciary, guardian of the public rights and freedoms, guarantees the respect for these rights and freedoms in the conditions specified by the law.

**Article 61**

No one may abuse the rights recognized by the Constitution or by the law in order to compromise the national unity, the peace, the democracy or the independence of Burundi or to interfere with the secular character of the State or to violate in any other way the present Constitution.

## **Chapter 2**

### **The Duties of the Individual and the Citizen**

**Article 62**

Every citizen has the duty to respect his compatriots and to value them, without any discrimination.

**Article 63**

Every citizen has duties toward the family and society, toward the State and the other public entities.

**Article 64**

Every Burundian has the duty to preserve and to strengthen the national unity in accordance with the *Charter of National Unity*.

**Article 65**

Everyone has the duty to respect the laws and the institutions of the Republic.

**Article 66**

Every Burundian has the duty to preserve the harmonious development of the family and work towards the cohesion and respect of that family, to respect at all times his parents, and to support and assist them in case of need.

**Article 67**

Every individual has the duty to respect and value his fellow man and woman without any discrimination, and to maintain relations with him which permit the promotion, preservation and reinforcement of respect and tolerance.

**Article 68**

In relations with society, every Burundian must see to the preservation and reinforcement of Burundian cultural values and contribute to the establishment of a morally healthy society.

**Article 69**

The public good (*les biens publics*) is sacred and inviolable. Every one is obliged to respect it scrupulously and to protect it. Every Burundian has the duty to defend the heritage of the nation.

Every act of sabotage, vandalism, corruption, embezzlement or waste, or any other act detrimental to public good is punished in the conditions specified by the law.

**Article 70**

All citizens are obliged to fulfill their civic obligations and to defend their country.

Every one has the duty to work for the common good and to meet his professional obligations.

All citizens are equal before the public debts (*les charges publiques*). No one may be exonerated except by law.

The State may proclaim the solidarity of all before the debts (*les charges*) that result from national and natural disasters.

**Article 71**

Every Burundian entrusted with a public function or elected to a political function has the duty to discharge it with [good] conscience, integrity, dedication and loyalty in the general interest.

**Article 72**

Every Burundian has the duty to defend the national independence and the integrity of the territory.

Every citizen has the sacred duty to watch over and to take part in the defense of the country.

Every Burundian, every foreigner who stays in the territory of the Republic has the duty not to compromise the security of the State.

**Article 73**

Every individual has the duty to contribute to the safeguarding of peace, of democracy and of social justice.

**Article 74**

Every Burundian has the duty to contribute by his work to the construction and prosperity of the country.

### **TITLE III THE SYSTEM OF POLITICAL PARTIES**

**Article 75**

The multi-party system is recognized in the Republic of Burundi.

**Article 76**

The political parties may be freely constituted in accordance with the law. They are licensed in accordance with the law.

**Article 77**

A political party is a non-profit-making association which brings together citizens in the pursuit of a project of democratic society based upon national unity, with a distinctive political program consisting of specific objectives which respond to the concern to serve the general interest and to ensure the development of all citizens.

**Article 78**

In their organization and functioning the political parties must respond to the democratic principles. They must be open to all Burundians, and their national character must also be reflected at the leadership level. They may not foment violence, exclusion, and hatred in any of their forms, and in particular those based on ethnic, regional, religious or gender affiliation.

**Article 79**

The political parties and the coalitions of political parties must promote the free exercise of the right to vote and take part in the political life by peaceful means.

**Article 80**

The law guarantees the non-interference of the public bodies in the internal functioning of the political parties, with the exception of those restrictions which are necessary for the prevention of ethnic, political, regional, religious or gender hatred and the maintenance of public order.

**Article 81**

The political parties may form coalitions at the time of elections, in accordance with the modalities fixed by the electoral law.

**Article 82**

The members of the defense and security forces as well as the magistrates who are still active are not allowed to be affiliated (*adhérer*) with a political party.

**Article 83**

The foreign financing of political parties is forbidden, unless an exceptional derogation has been granted by the law.

Any financing likely to conflict with national independence or sovereignty is prohibited.

The law determines and organizes the sources of financing for political parties.

**Article 84**

In order to promote democracy, the law may authorize the financing of political parties in an equitable manner, in proportion to the number of seats which they [the parties] hold at the National Assembly. This financing may cover the functioning of the political parties as well as the election campaigns, and must be transparent. The types of subsidies, benefits and facilities granted by the State to the political parties are defined by the law.

**Article 85**

The conditions under which political parties are established, operate and cease their activities are determined by the law.

## **TITLE IV ELECTIONS**

### ***Article 86***

The right to vote is guaranteed.

### ***Article 87***

The elections are free, transparent and take place at regular intervals. The electoral code determines the practical modalities.

### ***Article 88***

The elections are organized in an impartial manner at the national level, the level of the municipalities and hills, and at other levels determined by law.

### ***Article 89***

An Independent National Electoral Commission (*la Commission électorale nationale indépendante*) guarantees the freedom, impartiality and independence of the electoral process.

### ***Article 90***

The Commission is composed of five (5) independent personalities. Its members are appointed by decree after having been previously confirmed by separate votes of the National Assembly and the Senate with a three-quarter (3/4) majority.

### ***Article 91***

The Commission has the following missions:

- a) To organize the elections at the national level, the level of the municipalities and that of the hills;
- b) To ensure that the elections are free, transparent and take place regularly;
- c) To proclaim the provisional election results within a delay [as] determined by law;
- d) To promulgate the arrangements, the code of conduct and the technical details, including the location of the polling stations and their hours of operation;
- e) To hear complaints concerning the compliance with the electoral rules and to dispose of them. The decisions of the Commission are not subject to appeal;
- f) To ensure, by applying the appropriate rules, that the election campaigns are not conducted in a way that incites ethnic violence or in any manner that is contrary to the present Constitution;

g) To ensure the respect for those provisions of the present Constitution concerning multi-ethnicity or gender and to pronounce on the appeals in this respect.

## **TITLE V THE EXECUTIVE POWER**

### ***Article 92***

The executive power is vested in the President of the Republic, the two Vice-Presidents of the Republic and the members of the Government.

### ***Article 93***

An organic law establishes the rules on allowances and benefits of the President, the Vice-Presidents and the members of the Government as well as the rules on incompatibilities. It also determines their specific social security regime.

### ***Article 94***

On the assumption of their official functions and on their cessation the President of the Republic, the Vice-Presidents of the Republic and the members of the Government are obliged to submit on their honor a written declaration about their property and fortune to the Supreme Court.

## **Chapter 1 The President of the Republic**

### ***Article 95***

The President of the Republic, Head of State, embodies the national unity, sees to the respect of the Constitution and ensures, by his arbitration, the continuity of the State and the proper functioning of the public authorities.

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

### ***Article 96***

The President of the Republic is by direct universal suffrage for elected for a term of five (5) years, and may be re-elected once.

### ***Article 97***

A candidate for the office of President of the Republic shall:

- 1) have the quality of a voter in the conditions specified by the electoral law;
- 2) have acquired Burundian nationality by birth;



- 3) be thirty-five (35) years old at the time of the election;
- 4) be domiciled in the territory of Burundi at the time the candidacies are declared;
- 5) possess all his civil and political rights;
- 6) subscribe to the Constitution and the *Charter of National Unity*.

In addition, the candidate in presidential elections ought not to have been sentenced for a crime or common law offenses to a punishment specified by the electoral law.

The electoral law provides also for the delay at the end of which a person who has been sentenced in accordance with the preceding paragraph may recover his eligibility following the execution of the sentence.

#### **Article 98**

The candidates may be nominated by the political parties or may stand as independents.

A candidate is considered as an independent if, at the time when the candidacies are declared, he is not nominated by any political party.

#### **Article 99**

Every candidacy in the presidential elections must be sponsored by a group of two hundred (200) persons whose composition must take into account ethnic and gender components.

The members of the sponsoring group must themselves meet the substantive conditions required for eligibility in the general elections.

#### **Article 100**

The office of President of the Republic is incompatible with the exercise of any other elective public function, public employment or professional activity.

#### **Article 101**

If the candidate who is elected President of the Republic occupies a public function, he is automatically discharged (*en position de détachement*) from it upon proclamation of the election results.

If he occupies a private function, with or without payment, in his own interest or that of another person, he shall cease any activities upon proclamation of the election results.

#### **Article 102**

The election of the President of the Republic takes place in two (2) rounds on the basis of a single candidate system.

The President of the Republic is elected with the absolute majority of the votes cast. If this majority is not obtained on the first ballot, a second ballot will be held within fifteen (15) days.

Only those two (2) candidates who have obtained the highest number of votes on the first ballot may take part in the second ballot. In the case of the withdrawal of one (1) or the other of these two (2) candidates, the runners-up may participate in the order of their classification after the first ballot.

The candidate who obtains the relative majority of votes is declared elected on the second ballot.

#### **Article 103**

The term of the President of the Republic starts on the day on which he is sworn in and ends when his successor takes office.

The election of the President of the Republic takes place at the earliest one (1) month and at the latest two (2) months before the end of the term of the [incumbent] President of the Republic.

#### **Article 104**

If the incumbent President is a candidate [in the presidential elections], Parliament may not be dissolved. In addition, the President of the Republic may not, after his candidacy has been officially declared and until the election, exercise his power, pursuant to Article 195 of the present Constitution, to legislate by decree-law.

If necessary, Parliament is convened for an extraordinary session.

#### **Article 105**

The electoral law defines all other rules pertaining to the election of the President of the Republic.

#### **Article 106**

Upon taking office, the President of the Republic solemnly takes the following oath, accepted by the Constitutional Court before Parliament:

Before the Burundian people, sole holder of national sovereignty, I (pronounce the name), President of the Republic of Burundi, swear allegiance to the *Charter of National Unity*, to the *Constitution of the Republic of Burundi* and the law and promise to dedicate all my efforts to the defense of the superior interests of the nation, to ensure national unity and the cohesion of the Burundian people, social peace and justice. I commit myself to fighting any ideology and practice of genocide and exclusion, to promoting and defending the individual and collective rights and freedoms of the human person and the citizen, and to safeguarding the integrity and independence of the Republic of Burundi.

#### **Article 107**

The President of the Republic exercises the regulatory power and ensures the execution of the laws. He exercises his powers by decree which are countersigned, if necessary, by the Vice-President and the competent Minister.

The requirement of countersignature does not apply to the acts of the Presidents deriving from Articles 110, 113, 114, 115, 197, 198, 297 and 298 of the present Constitution.

The President of the Republic may delegate his powers to the Vice-Presidents, with the exception of those listed in the preceding paragraph.

#### **Article 108**

The President of the Republic, in consultation with the two Vice-Presidents, appoints the members of the Government and terminates their functions.

**Article 109**

The President of the Republic is the head of the Government. He chairs the Council of Ministers.

**Article 110**

The President of the Republic is the Commander-in-Chief of the defense and security forces. He declares war and signs the armistice after consultation with the Government, with the Executive Committees (*Les Bureaux*) of the National Assembly and the Senate and with the National Council of Security.

**Article 111**

The President of the Republic appoints the superior civil and military offices.

An organic law determines the categories of offices covered by the preceding paragraph.

The appointments to the superior civil, military and judicial offices mentioned in Article 187(9) of the present Constitution become effective only if they are approved by the Senate.

**Article 112**

The President of the Republic appoints and recalls ambassadors and extraordinary envoys to foreign States and receives the letters of credential and letters of recall of ambassadors and extraordinary envoys of foreign States.

**Article 113**

The President of the Republic has the right to grant pardon which he exercises after consultation with the two Vice-Presidents of the Republic and upon the advice of the Superior Council of the Magistrature.

**Article 114**

The President of the Republic confers the national orders [honors] and the decorations of the Republic.

**Article 115**

When the institutions of the Republic, the independence of the nation, the integrity of the territory or the execution of its international obligations are threatened in a grave and immediate manner and the regular functioning of the public powers is interrupted, the President of the Republic may proclaim, by decree-law, the state of exception and may take all the measures required by the circumstances, after official consultation with the Government, the Executive Committees of the National Assembly and Senate, the National Security Council and the Constitutional Court.

He informs the nation by way of a message.

These measures must be inspired by the will to grant to the constitutional public authorities the means to accomplish their mission within the shortest possible time.

The Constitutional Court is consulted with regard to these subjects.

Parliament may not be dissolved during the exercise of the exceptional powers.

**Article 116**

The President of the Republic may be removed from office for grave negligence, grave abuse or corruption by a resolution adopted by two-thirds (2/3) of the members of the National Assembly and the Senate in joint session.

#### **Article 117**

The President of the Republic is not penally responsible for acts accomplished in the exercise of his functions, except in case of high treason.

There is high treason when, in violation of the Constitution or the law, the President of the Republic deliberately perpetrates an act contrary to the superior interests of the nation which gravely compromises national unity, social peace, social justice, the development of the country, or which gravely violates human rights, territorial integrity, national independence and sovereignty.

High treason falls under the jurisdiction of the High Court of Justice (*la Haute Cour de Justice*).

The President of the Republic may only be impeached by the National Assembly and the Senate convened in Congress and deciding, in a secret vote, with a two-thirds (2/3) majority of their members.

The investigation may only be conducted by a team of at least three (3) magistrates from the General Office of Prosecutors (*le Parquet Général de la République*) led by the General Prosecutor of the Republic (*le Procureur Général de la République*).

#### **Article 118**

When the impeachment procedure of the President of the Republic for high treason is initiated by Parliament, the President of the Republic may not dissolve the latter until the end of the judicial procedure.

#### **Article 119**

Except for acts that arise from his discretionary competence, the administrative acts of the President of the Republic may be challenged before the competent jurisdictions.

#### **Article 120**

Upon the expiry of his functions, except in case of conviction for high treason, the President of the Republic has the right to a pension and to all other privileges and facilities determined by the law.

#### **Article 121**

In the case of absence or temporary incapacity of the President of the Republic, the First Vice-President or, in the absence of the latter, the Second Vice-President ensures the management of the current affairs of State.

In the case of vacancy by reason of resignation, of death or of any other cause of definitive cessation of the [presidential] functions, the interim [period] is assured by the President of the National Assembly or, if this latter is himself unable to exercise his functions, by the Vice-Presidents of the Republic and the Government, acting jointly.

The vacancy is stated by the Constitutional Court which is seized of the matter by the Vice-Presidents of the Republic and the Government, acting jointly.

The interim authority may not form a new Government.

The Vice-Presidents of the Republic and the Government are deemed to have resigned and may only ensure simply the expedition of the current affairs until the formation of a new Government.

The ballot for the election of the new President of the Republic takes place, except for *force majeure* (*sauf cas de force majeure*) stated by the Constitutional Court, within a period which may not be shorter than one (1) month and longer than three (3) months, starting with the declaration of the vacancy.

The interim authority appoints an Independent National Electoral Commission which is charged with the organization of a new presidential election in accordance with the law in force.

## **Chapter 2**

### **The Vice-Presidents of the Republic**

#### ***Article 122***

The President of the Republic is assisted in the exercise of his functions by two Vice-Presidents.

The First Vice-President ensures the coordination of the political and administrative domain.

The Second Vice-President ensures the coordination of the economic and social domain.

#### ***Article 123***

The Vice-Presidents are appointed by the President of the Republic after prior approval of their candidacy by the National Assembly and the Senate, voting separately, with the majority of their members. The [Vice-Presidents] are selected from among the elected officials.

They may be removed from their functions by the President from the Republic.

#### ***Article 124***

The Vice-Presidents belong to different ethnic groups and political parties.

The preceding paragraph notwithstanding, their appointment takes into account the predominant character of their ethnic affiliation within their respective political parties.

#### ***Article 125***

The First Vice-President chairs the Council of Ministers (*le Conseil des Ministres*) upon delegation by the President of the Republic and for a specific agenda.

In the case of incapacity of the First Vice-President, the President grants this delegation to the Second Vice-President.

#### ***Article 126***

The Vice-Presidents take by ministerial order (*arrêté*), each in his sector, all measures for the execution of the presidential decrees.

The Ministers in charge of their execution countersign these ministerial orders of the Vice-Presidents.

#### **Article 127**

Upon taking office, the Vice-Presidents solemnly take the following oath, accepted by the Constitutional Court before Parliament:

Before the Burundian people, sole holder of national sovereignty, I (pronounce the name), Vice-President of the Republic of Burundi, swear allegiance to the *Charter of National Unity*, to the *Constitution of the Republic of Burundi* and the law and promise to dedicate all my efforts to the defense of the superior interests of the nation, to ensure the national unity and the cohesion of the Burundian people, social peace and justice. I commit myself to fighting any ideology and practice of genocide and exclusion, to promoting and defending the individual and collective rights and freedoms of the human person and the citizen, and to safeguarding the integrity and independence of the Republic of Burundi.

#### **Article 128**

In the case of resignation, death or of any other cause of definitive cessation of the functions of Vice-President of the Republic, a new Vice-President of the Republic of the same ethnicity and the same political party as his predecessor is appointed, in accordance with the same procedure, within a period not exceeding thirty (30) days, starting with the definitive cessation of the functions of the Vice-President who has to be replaced.

### **Chapter 3 The Government**

#### **Article 129**

The Government is open to all ethnic components. It is composed of a maximum of sixty percent (60%) Hutu Ministers and Vice-Ministers and a maximum of forty percent (40%) Tutsi Ministers and Vice-Ministers. A minimum of thirty percent (30%) women is guaranteed.

The members come from different political parties which have received more than five percent (5%) (*plus d'un vingtième*) of the vote and which so desire [to join the Government]. These parties have the right to a percentage, rounded up, of the total number of Ministries, which corresponds to the percentage of seats which they hold in the National Assembly.

When the President dismisses a Minister, his replacement takes place after consultation with his party of origin.

#### **Article 130**

The President of the Republic, after consultation with the two Vice-Presidents of the Republic, sees to it that the Minister responsible for the National Defense Force (*la Force de Défense Nationale*) is not of the same ethnicity as the Minister responsible for the National Police (*la Police Nationale*).

#### **Article 131**

The Government determines and conducts the policy of the nation within the framework of the decisions taken by consensus in the Council of Ministers.

**Article 132**

The Government is obliged to deliberate upon the general policy of the State; drafts of international treaties and agreements; drafts of laws; [and] drafts of presidential decrees, ministerial orders of a Vice-President and ordinances by the Ministers having the character of a general regulation.

**Article 133**

The members of the Government are responsible to the President of the Republic.

Upon taking office, the members of the Government solemnly take the following oath before Parliament and the President of the Republic:

Before the President of the Republic, before Parliament, I (pronounce the name), swear allegiance to the *Charter of National Unity*, to the Constitution and the law. I promise to dedicate all my efforts to the defense of the superior interests of the nation, to ensure the national unity and the cohesion of the Burundian people, social peace and justice in the exercise of the functions which are entrusted to me. I commit myself to fighting any ideology and practice of genocide and exclusion, and to promoting and defending the individual and collective rights and freedoms of the human person and the citizen.

**Article 134**

The members of the Government take, by ordinance, all measures for the application of the decrees of the President of the Republic and the ministerial orders of the Vice-Presidents of the Republic.

**Article 135**

The members of the Government make or propose the appointments in the public administration and to diplomatic posts by taking into account the necessity to maintain an ethnic, regional, political and gender balance.

**Article 136**

The members of the Government are penally responsible for the offenses committed in the exercise of their functions.

They are tried by the Supreme Court (*la Cour Suprême*).

**Article 137**

The functions of [a] member of the Government are incompatible with the exercise of every [other] professional activity and the exercise of a parliamentary mandate.

## **Chapter 4**

### **The Provincial and Public Administration**

**Article 138**

The executive power is delegated, at the provincial level, to a Governor who has the task to coordinate the administration services working in the province.

In addition, the provincial Governor exercises the powers which the laws and regulations assign to him.

**Article 139**

The provincial Governor must be a native Burundian civilian, who is domiciled or lives in the territorial entity which he is charged to administer.

He is appointed by the President of the Republic after consultation with the Vice-Presidents of the Republic and confirmation by the Senate.

**Article 140**

The Administration functions in accordance with the democratic values and principles defined by the present Constitution and with the law.

**Article 141**

All agents of the public administration exercise their functions in such a way as to serve all users of public services in an efficient, impartial and equitable manner. The embezzlement of public funds, corruption, the extortion of funds and the waste of public money are subject to punishment in accordance with the law.

**Article 142**

The administration is organized in ministries, and every minister is accountable to the President of the Republic for the way in which his ministry accomplishes its tasks and makes use of the funds which are assigned to it.

**Article 143**

The Administration is widely representative of the Burundian Nation and must reflect the diversity of its components. The practices which it observes in the employment area are based on objective and equitable criteria of ability as well as on the necessity to redress imbalances and to ensure a wide ethnic, regional and gender representation. The ethnic representation in the public enterprises is fixed at a maximum of 60 percent (60%) for the Hutu and a maximum of 40 percent (40%) for the Tutsi.

**Article 144**

A law defines the distinction between career posts or technical and political posts.

**Article 145**

No agent of the public administration or the judicial branch of the State shall benefit from favorable treatment nor be subjected to partial treatment solely because of his or her sex, ethnic or regional origin or party affiliation.

**Article 146**

The executive personnel (*les cadres*) and agents of the Public Administration are obliged to make a declaration on their fortune when they take office and when they leave it.

A law determines the competent jurisdiction and the procedure to be followed.



## TITLE VI THE LEGISLATIVE POWER

### Chapter 1 The Common Provisions for the National Assembly and the Senate

#### **Article 147**

The legislative power is exercised by Parliament (*le Parlement*) which is composed of two (2) chambers: the National Assembly and the Senate.

The members of the National Assembly wear the title of deputy (*le député*); those of the Senate wear the title of senator (*le sénateur*).

No one may be a member of the National Assembly and the Senate simultaneously.

#### **Article 148**

An organic law determines the conditions in which the deputies and senators are replaced in the case of the vacancy of a parliamentary seat.

#### **Article 149**

The mandate of the deputies and senators has a national character. Any imperative mandate is void.

The vote of the deputies and senators is personal.

The internal rules of procedure of the National Assembly and the Senate may authorize by exception the delegation of a vote. However, no one may receive a delegation for more than one (1) mandate.

#### **Article 150**

The deputies and senators may not be prosecuted, searched, arrested, detained or judged for opinions or votes delivered during the parliamentary sessions.

During [parliamentary] sessions, deputies and senators may be prosecuted only with the authorization of the Executive Committee (*le Bureau*) of the National Assembly or the Executive Committee (*le Bureau*) of the Senate, except in case of *flagrante delicto*.

When not in session, the deputies and senators may be arrested only with the authorization of the Executive Committee of the National Assembly for the deputies or the Executive Committee of the Senate for the senators, except in the cases of *flagrante delicto*, of previously-authorized prosecution or of final sentence.

#### **Article 151**

The deputies and senators are tried before the Supreme Court in accordance with the law governing the latter and that which contains the code of the judicial organization and powers.

#### **Article 152**

The mandate of deputy or senator is incompatible with any other function of public character. An organic law may exempt certain categories of elected local officials or agents of the State from the regime of incompatibility with the mandate of deputy or senator.

**Article 153**

An organic law establishes the rules on allowances and benefits of the deputies and senators as well as rules on incompatibilities. It also determines their specific social security regime.

**Article 154**

When they assume their functions and when they leave them, the members of the Executive Committees of the National Assembly and the Senate are obliged to submit on their honor a written declaration about their property and fortune to the Supreme Court.

**Article 155**

A deputy or senator who is appointed to the Government or any other public function incompatible with the parliamentary mandate and who accepts the appointment immediately ceases to hold a seat in the National Assembly or the Senate and is replaced by his proxy (*suppléant*).

The deputy or senator falling under one of the incompatibilities mentioned in the preceding paragraph resumes his functions as soon as the incompatibility has been removed and as long as the mandate to which he has been elected is still running (*en cours*).

**Article 156**

The mandate of the deputy or senator expires in the case of death, resignation, permanent incapacity or unexcused absence during more than a quarter (25%) of the sessions of a parliamentary session period or when the deputy or senator fulfils the conditions for expiry provided for by an organic law.

**Article 157**

Except in cases of *force majeure* duly confirmed by the Constitutional Court, the deliberations of the National Assembly and the Senate have effect only if they are held in the ordinary place of their sessions.

The sessions of the National Assembly and the Senate are public. However, if necessary, the National Assembly and the Senate may convene behind closed doors.

The summary of the debates of the National Assembly and the Senate is published in the parliamentary journal (*le journal parlementaire*).

**Article 158**

The National Assembly adopts (*vote*) the law and controls the action of the Government.

**Article 159**

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

1) Fundamental guarantees and obligations of the citizen:

- safeguards on individual liberty;
- protection of the public freedoms;

- restrictions imposed, in the interest of national defense and public security, upon the person and goods of the citizens;

2) The status of persons and of property:

- nationality, status and capacity of persons;
- matrimonial regimes, inheritance and donations;
- the property regime, real property rights and civil and commercial obligations;

3) Political, administrative and judicial organization:

- general organization of the Administration;
- territorial organization, creation and modification of administrative districts as well as the determination of the electoral boundaries;
- electoral regime;
- general organization of the national orders, of decorations and honorary titles;
- general rules of organization for the national defense;
- general rules of organization for the national police;
- status of the personnel of the defense and security forces;
- status of the Parliamentary staff;
- general principles of the public function;
- status of the public function;
- state of exception;
- organizational framework for the creation and abolition of [public] establishments and autonomous public services;
- organization of the jurisdictions of all orders and of the procedure to be followed before them, creation of new orders of jurisdiction, determination of the status of the magistrature, the ministerial offices and the auxiliaries of justice;
- determination of crimes and offenses as well as the penalties applicable to them;
- organization of the Bar (*le barreau*);
- the penitentiary regime; amnesty.

4) The protection of the environment and conservation of natural resources;

5) Financial and property questions:

- the regime of issuance of currency;
- the Budget of the State;
- the definition of the basis and the rate of duties and taxes;
- transfer and management of the domain of the State;

6) The nationalization and denationalization of enterprises and the transfer of ownership of enterprises from the public sector to the private sector;

7) The regime of education and scientific research;

8) The objectives of economic and social action of the State;

9) The legislation on labor, social security, union rights, including the conditions for the exercise of the right to strike.

Matters other than those that fall within the domain of the statutory law have a regulatory character.

Texts adopted in the form of a statutory law on these matters may be modified by presidential decree issued upon advice by the Constitutional Court.

#### **Article 161**

Texts adopted in the form of a regulation on matters which are of the domain of the statutory law may be modified by way of the legislative procedure, upon advice by the Constitutional Court.

#### **Article 162**

The budget law (*la loi de finances*) determines, for each year, the resources and expenditures of the State.

#### **Article 163**

The two chambers of Parliament convene in Congress in order to:

- 1) Receive a message of the President of the Republic;
- 2) Impeach the President in case of high treason by a resolution adopted by two-thirds (2/3) of the members of the National Assembly and the Senate;
- 3) Re-examine the draft law on finance in accordance with Article 177;
- 4) Elect the first President of the Republic of the post-transition period;
- 5) Evaluate, every six (6) months, the implementation of the program of the Government;
- 6) To take the oath from the CENI [Independent National Electoral Commission (*la Commission électorale nationale indépendante*)].

The Executive Committee of Parliament (*le Bureau du Parlement*) convened in Congress is composed of the Executive Committees of the National Assembly and the Senate. The chairmanship and the vice-chairmanship of the sessions are entrusted to the President of the National Assembly and the President of the Senate, respectively.

The internal rules of procedure of the National Assembly are those which apply to the deliberations of Congress.

## **Chapter 2 The National Assembly**

#### **Article 164**

The National Assembly is composed of at least hundred (100) deputies with the ratio of sixty percent (60%) Hutu to forty percent (40%) Tutsi, including a minimum of thirty percent (30%) women, elected by direct universal suffrage for a term of five (5) years, and of three (3) deputies of the Twa ethnic group who are co-opted in accordance with the electoral code.

In case the election results do not reflect the percentages fixed in the preceding paragraph, the resulting imbalances will be redressed by means of the co-optation mechanism provided for by the Electoral Code. The number of candidates to be elected in the constituency is fixed by the electoral law in proportion to the population.

#### **Article 165**

A candidate in the parliamentary elections (*les élections législatives*) must be of Burundian nationality and origin, must be at least twenty-five (25) years old and must possess all civil and political rights.

A candidate in the parliamentary elections must not to have been sentenced for a crime or common law offenses to a punishment specified by the electoral law.

The electoral law provides also for the delay at the end of which a person who has been sentenced in accordance with the preceding paragraph may recover his eligibility following the execution of the sentence.

#### **Article 166**

The candidates in the parliamentary elections may be nominated by the political parties or may stand as independents, as defined by Article 99 of the present Constitution.

#### **Article 167**

The Independent National Electoral Commission verifies the admissibility of the candidacies.

#### **Article 168**

The election of the deputies takes place according to the system of proportional representation on the basis of closed lists (*les listes bloquées*). The lists must have a multi-ethnic character must take into account the balance between men and women. For [every] three (3) candidates registered together (*inscrits à la suite*) on a list, only two (2) may belong to the same ethnic group, and at least one (1) in four (4) must be a woman.

#### **Article 169**

The candidates nominated by the political parties or the lists of independent candidates may only be deemed elected and sit in the National Assembly if their party or list receives at the national level a total number of votes which equals or exceeds two percent (2%) of the total votes cast.

#### **Article 170**

During its first session period, the National Assembly adopts its internal rules of procedure which determine its organization and functioning. It also establishes its Executive Committee. The first session is convened by law on the first working day following the seventh (7th) day after the confirmation of the election by the Constitutional Court. This session is chaired by the oldest deputy.

#### **Article 171**

The Executive Committee of the National Assembly (*le Bureau de l'Assemblée Nationale*) consists of a President and the Vice-Presidents.

The President and the other members of the Executive Committee of the National Assembly are elected for the whole parliamentary term. Regardless, their functions may be terminated in the conditions established by the rules of procedure of the National Assembly.

#### **Article 172**

Parliamentary groups may be established within the National Assembly. The internal rules of procedure of the National Assembly determine the modalities of their organization and functioning.

#### **Article 173**

The opposition parties are legally entitled to take part in all parliamentary committees, whether they are specialized committees or investigating committees.

A political party which has members in the Government may not claim the status of opposition party.

#### **Article 174**

The National Assembly convenes every year for three (3) ordinary session periods of three (3) months each. The first session period starts on the first Monday of February, the second on the first Monday of June and the third on the first Monday of October.

Extraordinary sessions may be convened, at the request of the President of the Republic or of the absolute majority of the members composing the National Assembly, for a period not exceeding fifteen (15) days and on a specific agenda.

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

#### **Article 175**

The deliberations of the National Assembly are valid only if two-thirds (2/3) of the deputies are present. The laws are adopted (*votées*) with a majority of two-thirds (2/3) of the deputies present or [validly] represented.

The organic laws are adopted with a majority of two-thirds (2/3) of the deputies present or represented, provided that this majority is not inferior to the absolute majority of the members composing the National Assembly.

The majority of two-thirds (2/3) of the deputies present or represented is equally required for the adoption of important resolutions, decisions and recommendations.

#### **Article 176**

The National Assembly is seized with the draft budget law at the beginning of the October session.

#### **Article 177**

The National Assembly adopts (*vote*) the general budget of the State. If it has not adopted a budget by December 31, the budget of the previous year is reapplied (*repris*) provisionally by one-twelfths [per month] (*par douzièmes provisoires*).

At the request of the President of the Republic, Parliament convenes in Congress within a period of fifteen (15) days in order to re-examine the draft budget.

If the National Assembly has not adopted (*voité*) the budget by the end of this session, the final decision on the budget is taken by decree-law in the Council of Ministers.

#### **Article 178**

A Court of Accounts (*une Cour des Comptes*) is established which is charged with the task of examining and certifying the accounts of all public services. It assists Parliament in the control and execution of the budget law.

The Court of Accounts presents to Parliament a report on the regularity of the general accounts of the State and confirms whether the funds have been used in accordance with established procedures and the budget approved by Parliament.

It provides the Government with a copy of this report.

The Court of Accounts is provided with the resources necessary to accomplish its functions.

The law determines its missions, organization, powers, functioning and the procedure to be followed before it.

## **Chapter 3**

### **The Senate**

#### ***Article 179***

The candidate in the election of the Senators must be of Burundian nationality, must be of thirty-five (35) years of age at the time of the elections, and must possess all his civil and political rights.

The candidate in the Senate elections must not have been sentenced for a crime or common law offenses to a punishment specified by the electoral law.

The electoral law provides also for the delay at the end of which a person who has been sentenced in accordance with the preceding paragraph may recover his eligibility following the execution of the sentence.

#### ***Article 180***

The Senate is composed of:

- 1) Two (2) delegates from each province, elected by an electoral college composed of members of the local councils of the relevant province, coming from different ethnic communities and elected in distinct electoral procedures;
- 2) Three (3) persons from the Twa ethnic group;
- 3) The former heads of State (*les Chefs d'Etat*).

A minimum of thirty percent (30%) women is guaranteed. The electoral law provides for the practical modalities, including co-optation, if necessary.

#### ***Article 181***

The Independent National Electoral Commission verifies the admissibility of the candidacies. These candidacies are presented by the political parties or may consist of independents within the meaning defined by Article 98 of the present Constitution.

#### ***Article 182***

At its first session, the Senate adopts its internal rules of procedure which determine its organization and functioning. It also elects its Executive Committee.

The first session is convened by law on the first (1st) working day following the seventh (7th) day after the confirmation of the election by the Constitutional Court. This session is chaired by the oldest Senator.

**Article 183**

The Executive Committee consists of a President and the Vice-Presidents.

**Article 184**

The establishment of parliamentary groups is prohibited in the Senate.

**Article 185**

The Senate convenes every year for three (3) ordinary session periods of three (3) months each and at the same time as the National Assembly.

Extraordinary sessions may be convened, at the request of the President of the Republic or of the absolute majority of the members composing the Senate, for a period not exceeding fifteen (15) days and on a specific agenda.

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

**Article 186**

The deliberations of the Senate are valid only if two-thirds (2/3) of the senators are present. The laws are adopted with a majority of two-thirds (2/3) of the senators present or [validly] represented.

The organic laws are adopted with a majority of two-thirds (2/3) of the senators present or represented, provided that this majority is not inferior to the absolute majority of the members composing the Senate.

**Article 187**

The Senate has the following powers:

- 1) To approve the amendments to the Constitution and to the organic laws, including the laws governing the electoral process;
- 2) To receive the report of the ombudsman on any aspect of public administration;
- 3) To approve the statutory texts concerning the delimitation, functions and powers of the territorial entities;
- 4) To conduct enquiries in the public administration, and, if necessary, to submit recommendations to ensure that no region or group is excluded from the benefits of public services;
- 5) To control the application of the constitutional provisions which require the representative ethnic and gender character and the balance of all State structures and institutions, and in particular of the public administration and of the defense and security forces;
- 6) To advise the President of the Republic and the President of the National Assembly on all issues, especially those of a legislative nature;



- 7) To formulate observations and recommend amendments with regard to the legislation adopted by the National Assembly;
- 8) To elaborate and to submit legislative proposals for consideration by the National Assembly;
- 9) To approve appointments only of the following positions (*les fonctions*):
  - a) the chiefs of the defense and security forces (*les Corps de défense et sécurité*);
  - b) the provincial governors;
  - c) the ambassadors;
  - d) the Ombudsman;
  - e) the members of the Superior Council of the Magistrature (*le Conseil Supérieur de la Magistrature*);
  - f) the members of the Supreme Court;
  - g) the members of the Constitutional Court;
  - h) the General Prosecutor of the Republic (*le Procureur Général de la République*) and the magistrates of the General Office of Prosecutors of the Republic (*le Parquet Général de la République*);
  - i) the President of the Court of Appeal (*la Cour d'Appel*) and the President of the Administrative Court (*la Cour Administrative*);
  - j) the General Prosecutor at the Court of Appeal (*le Procureur Général près la Cour d'Appel*);
  - k) the presidents of the upper courts (*les Tribunaux de Grande Instance*), the Court of Commerce and the Labor Court;
  - l) the prosecutors (*les procureurs*) of the Republic;
  - m) the members of the Independent National Electoral Commission.

## **Chapter 4**

### **The Legislative Procedure**

#### ***Article 188***

Government bills and legislative proposals [by members of the Parliament] are submitted simultaneously to the Executive Committees of the National Assembly and the Senate.

Every Government bill and any legislative proposal specifies whether it deals with issues falling within the competence of the Senate in accordance with Article 187.

The texts covered by the preceding paragraph are automatically included in the agenda of the Senate.

The others texts are examined in accordance with the procedure provided for in Articles 190 and 191 below.

In cases of doubt or dispute about the admissibility of a text, the President of the Republic, the President of the National Assembly or the President of the Senate may seize the Constitutional Court to decide on the matter.

#### **Article 189**

In matters other than those covered by Article 188, the text is adopted in the first (1st) reading by the National Assembly. It is promptly transmitted to the Senate by the President of the National Assembly.

Upon the request of its Executive Committee or of at least one-third (1/3) of its members, the Senate examines the draft law. The request is formulated within seven (7) days from the receipt of the draft.

Within a period which may not exceed ten (10) days starting with the request, the Senate may either decide that there is no reason to amend the bill or proposal or adopt the bill or proposal after having amended it.

If the Senate has not taken (*n'a pas statué*) a decision within the prescribed period or if it has informed the National Assembly of its decision not to amend the draft law, the President of the National Assembly transmits it within forty-eight (48) hours to the President of the Republic for promulgation.

If the draft has been amended, the Senate transmits to the National Assembly which takes a decision, either by adopting or by rejecting wholly or in part the amendments adopted by the Senate.

#### **Article 190**

If, on the occasion of the examination referred to in the last paragraph of Article 189, the National Assembly adopts a new amendment, the bill is returned to the Senate which takes a decision on the amended draft.

Within a period not to exceed five (5) days starting with the return of the bill, the Senate may either decide to adhere to the draft amended by the National Assembly or to adopt the draft after having amended it again.

If the Senate has taken no decision within the prescribed period or if it has informed the National Assembly of its decision to adhere to the draft voted by the National Assembly, the latter transmits it within forty-eight (48) hours to the President of the Republic for promulgation.

If the bill has been amended again, the Senate transmits it to the National Assembly which takes the final decision, either by adopting or by amending the bill.

#### **Article 191**

In matters covered by Article 187(1) and (3), the text adopted by the National Assembly is transmitted to the Senate for adoption by the President of the National Assembly.

The Senate adopts the draft, either with or without amendment, within a period which may not exceed thirty (30) days.

If the Senate adopts the draft without amendment, the President of the Senate returns the adopted text to the President of the National Assembly who transmits it within forty-eight (48) hours to the President of the Republic for promulgation.

If the Senate adopts the draft with amendments, the President of the Senate transmits it to the National Assembly for a new examination.

If the amendments proposed by the Senate are accepted by the National Assembly, the President of the National Assembly transmits the final text within forty-eight (48) hours to the President of the Republic for promulgation.

When, as a result of a difference of opinion between the two chambers, the bill or legislative proposal could not be adopted, the President of the National Assembly and the President of the Senate establish a joint committee, composed of an equal number of members from each chamber, which has the task to propose a joint text on the whole proposal or the part of it which is still under discussion within fifteen (15) working days.

The text elaborated by the joint committee is submitted for approval to the two chambers. No amendment is admissible.

Each of the two chambers approves it separately.

If the joint committee does not succeed in adopting a common text, or if this text is not adopted by one chamber or the other, the President of the Republic may either ask the National Assembly to make a final decision or declare that the bill or proposal has lapsed.

The National Assembly adopts this text with a two-thirds (2/3) majority.

## **TITLE VII**

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

#### ***Article 192***

The right to initiate legislation belongs concurrently to the President of the Republic, the Government, the National Assembly and the Senate.

The Government bills are discussed in the Council of Ministers.

#### ***Article 193***

The agenda of the National Assembly and the Senate includes, by priority and in the order determined by the Government, the discussion of the bills presented by the Government and legislative proposals presented by the members of the National Assembly and the Senate.

If a legislative proposal has not been discussed during two (2) subsequent ordinary session periods, it must be included by priority in the agenda of the following session period.

#### ***Article 194***

The Government has the right to propose amendments to legislative proposals submitted by the members of Parliament.

The members of the National Assembly and the Senate have the right to discuss, propose amendments to or reject the bills submitted by the Government.

However, the proposals and amendments formulated by members of the National Assembly and the Senate are not admissible when their adoption would result either in a significant reduction of public resources or in the creation or worsening of a public deficit, unless such proposals or amendments provide for compensatory revenues.

When the National Assembly or the Senate has referred the examination of a bill or a legislative proposal to a parliamentary committee, the Government may, after the opening of the debates, oppose the examination of any amendment which has not previously been submitted to that committee.

If the Government so requests, the summoned chamber decides by a single vote on all or part of the bill or legislative proposal by retaining only those amendments proposed or accepted by it [the Government].

#### ***Article 195***

The Government may, for the execution of its program, request from Parliament the authorization to adopt by decree-law, for a limited time, the measures which are normally of the domain of the statutory law.

Such decree-laws must be ratified by Parliament in the course of the following session.

The ratification takes place by a single vote on the whole text of the law.

In the absence of a law of ratification, such decrees become lapsed; the lapse is stated by the Constitutional Court, if necessary.

#### ***Article 196***

If it appears in the course of the legislative procedure that a legislative proposal or amendment is not within the domain of the statutory law, the Government may oppose it as inadmissible.

In case of disagreement between the Government and Parliament, the Constitutional Court, at the request of the President of the Republic, the President of the National Assembly or the President of the Senate, gives a ruling within eight (8) days.

#### ***Article 197***

The laws adopted by Parliament are promulgated by the President of the Republic within thirty (30) days from their transmission, unless he requests a second (2nd) reading or brings the matter before the Constitutional Court on grounds] of their unconstitutionality.

The request for a new reading may concern all or part of the law.

After a second (2nd) reading, the same text may not be promulgated unless it has been voted by a majority of threequarters (3/4) of the deputies and three-quarters (3/4) of the senators.

Before promulgating the organic laws, the President of the Republic must ask the Constitutional Court for verification of their conformity to the Constitution.

**Article 198**

The President of the Republic may, after consultation with the Vice-Presidents of the Republic, the President of the National Assembly and the President of the Senate, submit to a referendum any draft of a constitutional, legislative or other text, which is likely to have profound repercussions on the life and the future of the Nation or on the nature and the functioning of the institutions of the Republic.

**Article 199**

The President of the Republic communicates with Parliament convened in Congress by way of [a] message. This message does not give rise to any debate.

**Article 200**

The members of the Government may attend the sessions of the National Assembly and the Senate.

They are heard every time they so request. They may call upon the assistance of experts.

**Article 201**

The members of the National Assembly and the Senate have the right to debate the action and the policy of the Government.

**Article 202**

The National Assembly and the Senate may keep themselves informed of the action of the Government by way of oral or written questions addressed to the members of the Government.

During the session periods, at least one (1) session per week is reserved by priority to the questions by the deputies and senators and to the answers by the Government.

The Government is held to provide the National Assembly and the Senate with all explanations which are requested from it concerning its administration or its acts.

**Article 203**

The National Assembly may present a motion of censure against the Government with a majority of two-thirds (2/3) of its members. It may be dissolved by the Head of State.

A motion of defiance may be voted by a majority of two-thirds (2/3) of the members of the National Assembly against a member of the Government who has shown a manifest lack of competence in the management of his ministerial department, or who commits acts contrary to moral integrity or decency or who, by his conduct, disturbs the normal functioning of Parliament. In this case, the member of the Government compulsorily tenders his resignation.

**Article 204**

The National Assembly and the Senate have the right to constitute parliamentary committees charged with the investigation of specific matters of governmental action.

**TITLE VIII  
THE JUDICIAL POWER**

#### **Article 205**

Justice is administered by the courts and tribunals in the whole territory of the Republic in the name of the Burundian people.

The role and competences of the Public Ministry are exercised by the magistrates of the Office of Prosecutors (*Parquet*). However, the judges of the residential tribunals and the police officers may fulfill the duties of the Public Ministry at these tribunals under the supervision of the Prosecutor of the Republic (*le procureur de la République*).

The organization and competences of the judiciary are established by organic law.

#### **Article 206**

The hearings of the jurisdictional bodies are public except in cases where a hearing behind closed doors has been ordered by judicial decision, when publicity is dangerous to public order or morality.

#### **Article 207**

All judicial decisions have to be justified (*motivée*) before they are pronounced in a public hearing.

#### **Article 208**

The judiciary is structured in such a way as to reflect in its composition the entire population.

The procedures of recruitment and appointment in the judiciary must respond to the imperative need to promote regional and ethnic balance and the balance between the sexes.

#### **Article 209**

The judiciary is impartial and independent of the legislative power and of the executive power. In the exercise of his functions, the judge is subject only to the Constitution and to the law.

The President of the Republic, Head of State, is the guarantor of the independence of the Magistrature.

He is assisted in this mission by the Superior Council of the Magistrature.

## **Chapter 1**

### **The Superior Council of the Magistrature**

#### **Article 210**

The Superior Council of the Magistrature (*le Conseil Supérieur de la Magistrature*) supervises the good administration of justice. It is the guarantor of the independence of the judges (*les magistrats*) in the exercise of their functions.

#### **Article 211**

The Superior Council of the Magistrature is the highest disciplinary body of the magistrature. It decides about complaints by private citizens and the ombudsman concerning the professional conduct of the judges and prosecutors as well as about the remedies of the judges and prosecutor against disciplinary measures or their complaints concerning their career.

#### **Article 212**

A judge or prosecutor may only be removed from office for professional negligence or incompetence, and only upon proposal by the Superior Council of the Magistrature.

#### **Article 213**

The Superior Council of the Magistrature assists the President of the Republic and the Government in:

- 1) the elaboration of the policy on justice matters;
- 2) the monitoring of the situation of the country in the judicial area and in the area of human rights;
- 3) the elaboration of strategies in the fight against impunity.

#### **Article 214**

In their career, judges and prosecutors are appointed by Decree (*le Décret*) of the President of the Republic upon proposal of the Minister responsible for the justice sector and upon advice of the Superior Council of the Magistrature.

The judges and prosecutors at the residential tribunals are appointed by ordinance of the Minister responsible for the justice sector following the same procedure.

#### **Article 215**

All appointments to judicial functions referred to in Article 187(9),<sup>[2]</sup> except those to the Constitutional Court, are made by the President of the Republic on a proposal by the Minister responsible for the justice sector, upon advice by the Superior Council of the Magistrature and confirmation by the Senate.

#### **Article 216**

Once per year, the Superior Council of the Magistrature produces a report on the situation in the justice sector which it addresses to the Government, the National Assembly and the Senate.

#### **Article 217**

The Superior Council of the Magistrature is balanced on the ethnic and regional level and between the sexes. It includes:

- five (5) members designated by the Government;
- three (3) judges of the upper courts;
- two (2) magistrates of the Public Ministry;
- two (2) judges of the residential tribunals;

— three (3) members exercising a legal profession in the private sector.

The members of the second (2nd), third (3rd) and fourth (4th) category are elected by their peers.

**Article 218**

The members of the Superior Council of Magistrature are appointed by the President of the Republic after approval by the Senate.

**Article 219**

The Superior Council of the Magistrature is chaired by the President of the Republic assisted by the Minister responsible for the justice sector.

**Article 220**

An organic law determines the organization and functioning of the Superior Council of the Magistrature as well as the modalities of designation of its members.

## **Chapter 2 The Supreme Court**

**Article 221**

The Supreme Court (*la Cour Suprême*) is the highest ordinary jurisdiction of the Republic.

It is the guarantor of the good application of the law by the courts and tribunals.

**Article 222**

The judges of the Supreme Court are appointed by the President of the Republic upon proposal by the Minister responsible for the justice sector, upon advice of the Superior Council of the Magistrature and with the approval of the Senate.

**Article 223**

At the Supreme Court, an office of prosecutors (*parquet général*) of the Republic is established whose members are appointed in the same manners as the judges of the Supreme Court.

**Article 224**

An organic law specifies the composition, organization, jurisdiction and the functioning of the Supreme Court as well as the procedure applicable to it.

## **Chapter 3 The Constitutional Court**

**Article 225**

The Constitutional Court (*la Cour Constitutionnelle*) is the jurisdiction of the State in constitutional matters. It is the judge of the constitutionality of laws and interprets the Constitution.



#### **Article 226**

The Constitutional Court is composed of seven (7) members. They are appointed by the President of the Republic after approval by the Senate. They have a non-renewable term of office of six (6) years.

At least three (3) members of the Constitutional Court are career magistrates.

The President, the Vice-Presidents and the career magistrates [all, of this court] are permanent.

The members of the Constitutional Court are chosen among lawyers who are recognized for their moral integrity, impartiality and independence.

Three (3) members of the Constitutional Court who have been appointed before the entry into force of this Constitution have a term limited to three (3) years. They are chosen by drawing lots; the drawing is done by the President of this court assisted by his deputy during a public hearing.

#### **Article 227**

The Constitutional Court may only sit if at least five (5) of its members are present. Its decisions are taken with the absolute majority of its sitting members, the President [of the Court] casting the tie-breaking vote in the case of a tie.

#### **Article 228**

The Constitutional Court is competent to:

- decide on the constitutionality of laws and regulatory acts adopted in matters other than those falling within the domain of the statutory law;
- ensure respect of the present Constitution, including the *Charter of Fundamental Rights*, by the state organs and other institutions;
- interpret the Constitution upon request of the President of the Republic, the President of the National Assembly, the President of the Senate, one quarter (1/4) of the deputies or one quarter (1/4) of the senators;
- decide on the regularity of the presidential and parliamentary elections and the referenda and to proclaim their final results;
- take the oath of the President of the Republic, of the Vice-Presidents of the Republic and of the members of Government before they take office;
- determine the vacancy of the office of President of the Republic.

The organic laws before their promulgation, the internal rules of procedure of the National Assembly and the Senate before their application are subject to an obligatory review (*contrôle*) of their constitutionality [by the Constitutional Court].

#### **Article 229**

The Constitutional Court is equally competent to decide in the cases referred to in Articles 115, 157, 160, 161, 188, 234 and 296 of the present Constitution.

#### **Article 230**

Matters may be brought before the Constitutional Court by the President of the Republic, the President of the National Assembly, the President of the Senate, a quarter (1/4) of the members of the National Assembly, or a quarter (1/4) of the members of the Senate, or by the Ombudsman.

Every interested physical or moral person, as well as the Public Ministry, may request the Constitutional Court to rule on the constitutionality of laws, either directly by means of an action or by the procedure of objection of unconstitutionality invoked in a matter tried before another jurisdiction.

The objection of unconstitutionality suspends the judgement of the court in the ordinary proceedings until the decision of the Constitutional Court, which must intervene within thirty (30) days.

#### **Article 231**

A provision declared unconstitutional may not be promulgated or put into application.

The decisions of the Constitutional Court are not subject to any appeal.

#### **Article 232**

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

## **Chapter 4 The High Court of Justice**

#### **Article 233**

The High Court of Justice (*la Haute Cour de Justice*) consists of the Supreme Court and the Constitutional Court sitting together. It is chaired by the President of the Supreme Court; the Public Ministry is represented by the General Prosecutor of the Republic.

#### **Article 234**

The High Court of Justice is competent to try the President of the Republic for high treason, the President of the National Assembly, the President of the Senate and the Vice-Presidents of the Republic for crimes and offenses during their term in office.

The investigation and the judgement take precedence over all other matters.

The decisions of the High Court of Justice are not subject to any appeal, except for petitions of pardon or revision.

#### **Article 235**

In the case of judgment (*condamnation*), the President of the Republic, the Vice-Presidents of the Republic, the President of the National Assembly and the President of the Senate are removed from their functions.

#### **Article 236**

The rules of organization and functioning of the High Court of Justice as well as the procedure to be followed before it are established by organic law.

## **TITLE IX THE OMBUDSMAN**

### ***Article 237***

The Ombudsman receives the complaints and conducts the enquiries concerning management failures and violations of the rights of the citizens by agents of the public function and of the judiciary and submits recommendations on the subject to the competent authorities. He also ensures mediation between the Administration and the citizens and between the ministries and the Administration and fulfills a monitoring role concerning the functioning of the public administration.

The organization and the functioning of his service are established by law.

### ***Article 238***

The Ombudsman has the powers and resources necessary for the accomplishment of his functions. Every year, he presents a report to the National Assembly and the Senate. His report is published in the *Official Bulletin of Burundi (le Bulletin officiel du Burundi)*.

### ***Article 239***

The Ombudsman is appointed by the National Assembly with a majority of three-quarters (3/4) of its members. His appointment is subject to the approval by the Senate with a majority of two-thirds (2/3) of its members.

His term is a non-renewable six (6) years.

## **TITLE X THE DEFENSE AND SECURITY FORCES**

### ***Article 240***

The defense and security forces are established in accordance with the law. No other armed organization may be created or set up apart from them.

### ***Article 241***

The defense and security forces must reflect the resolute determination of the Burundians, in their individual capacity as well as in their capacity as a nation, to live in equality, peace and harmony. They must instruct their members to act in conformity with the Constitution and the laws in force, as well as with the international conventions and agreements to which Burundi is a party, and request them to respect these texts.

The defense and security forces serve the Burundian people. They must be an instrument of protection for the whole Burundian people and the whole people must identify with them.

### ***Article 242***

The maintenance of national security and national defense are subject to the authority of the Government and the control of Parliament.

#### **Article 243**

The defense and security forces must account for their actions and work in absolute (*toute*) transparency. Parliamentary committees charged with the task of controlling the work of the defense and security forces are established in accordance with the laws in force and following the rules of procedure of Parliament.

#### **Article 244**

Neither the defense and security forces nor any of their members may, in the exercise of their functions:

- a) Harm the interests of a political party which, under the terms of the Constitution, is legal;
- b) Manifest their political preferences;
- c) Favor, in a partisan manner, the interests of a political party;
- d) Be a member of a political party or of an association of a political nature;
- e) Take part in activities or manifestations of a political character.

The law governing the organization and the functioning of the defense and security forces suppresses (*réprime*) the violation of these prohibitions.

#### **Article 245**

The defense and security forces consist of a national defense force, a national police and a national intelligence service, all established in accordance with the present Constitution.

The National Defense Force of Burundi (*la Force de Défense Nationale du Burundi*) is an armed body created, organized and trained for the defense of the national territorial integrity, independence and sovereignty.

The National Police of Burundi (*la Police Nationale du Burundi*) is a body created, organized and trained for the maintenance and restoration of security and order inside the country.

The National Intelligence Service (*le Service National de Renseignement*) is a body created, organized and trained for collecting, centralizing and exploiting any information which might contribute to the security of the State, its institutions and international relations as well as the prosperity of its economy.

#### **Article 246**

The defense and security forces are subordinated to the civilian authority in the respect of the Constitution, of the law and the regulations.

#### **Article 247**

The defense and security forces develop within their ranks a non-discriminatory, non-ethnist and non-sexist culture.

#### **Article 248**

The organic laws determine the establishment, the missions, organization, instruction, service conditions and functioning of the National Defense Force, the National Police and the National Intelligence Service.

**Article 249**

Within the limits determined by the Constitution and the law, only the President may authorize the use of the Armed Forces (*la Force Armée*):

- a) In defense of the State;
- b) In restoring order and public security;
- c) In the fulfillment of international obligations and commitments.

**Article 250**

When the National Defense Force is used in one of the cases referred to in the preceding Article, the President officially consults the competent authorities and informs Parliament promptly and in a detailed manner about:

- a) The reason or reasons for the use of the National Defense Force;
- b) The location where the force is deployed;
- c) The period of time for which the force is deployed.

**Article 251**

If Parliament is not in session, it is convened in an extraordinary session by the President within seven (7) days following the use of the National Defense Force.

**Article 252**

The defense and security forces respect the dignity and the rights of their members within the framework of the normal constraints of discipline and instruction.

**Article 253**

The members of the defense and security forces have the right to be informed about the socio-political life of the country and to receive civic education.

**Article 254**

Any foreign intervention outside international conventions is prohibited. Any recourse to foreign forces is prohibited, except in the cases authorized by the President of the Republic.

**Article 255**

The State has the duty to develop a policy of pertinent reforms in matters of defense and security which strengthen the unity and the cohesion of the Burundian people, in particular by ensuring the necessary ethnic, regional and gender balances.

**Article 256**

The defense and security forces are organized in such a way as to guarantee the unity within their ranks, the political neutrality of their members as well as the impartiality in the accomplishment of their missions.

**Article 257**

The defense and security forces are open without discrimination to all Burundian citizens who want to become a part of them. Their organization is based on voluntary membership (*le volontariat*) and professionalism.

During a period to be determined by the Senate, the defense and security forces will not consist of more than fifty percent (50%) of members belonging to a particular ethnic group, taking into account the necessity to ensure ethnic balance and to prevent acts of genocide and coups d'état.

**Article 258**

The redress of imbalances within the ranks of the defense and security forces is tackled progressively in a spirit of reconciliation and trust in order to provide all Burundians with a sense of security.

**Article 259**

The defense and security forces are composed of professionals and are non-partisan.

Their members benefit from a technical, moral and civic education. This education focuses especially on the culture of peace, the conduct in a pluralist democratic political system and human rights.

**Article 260**

The members of the defense and security forces are trained at all levels in the respect of international humanitarian law and of the primacy of the Constitution.

**Article 261**

A civilian may not be subjected to the code of military justice nor sentenced by a military jurisdiction.

## **TITLE XI THE LOCAL COMMUNITIES**

**Article 262**

The municipality (*la commune*) as well as the other local communities (*la collectivités locales*) of the Republic are established by an organic law.

The law determines the fundamental principles of their status, organization, powers, [and] resources as well the conditions in which the local communities are managed.

**Article 263**

The municipality is a decentralized administrative unit. It is subdivided in units established by an organic law.

**Article 264**

The municipality is managed by the local council (*le Conseil communal*) and the local administrator (*l'Administrateur communal*).

#### **Article 265**

The elections at the municipality level take place in accordance with the following procedures:

- a) The hills (*les collines*) are managed by the councils of the hills of five (5) members elected by direct universal suffrage. The councilor who has received the highest number of votes becomes Chief of the hill (*le Chef de la colline*). The candidates must stand as independents;
- b) The municipalities are managed by the local councils which are elected by direct universal suffrage.

#### **Article 266**

The Independent National Electoral Commission sees to it that the local councils reflect in a general manner the ethnic diversity of their electorate. In case the composition of a local council does not reflect this ethnic diversity, the Independent National Electoral Commission may order the co-optation to the council of persons coming from an underrepresented ethnic group, provided that the persons thus co-opted do not constitute more than a fifth (1/5) of the members of the council. The persons to be co-opted are designated by the Independent National Electoral Commission.

For the purposes of the first elections, every local council elects among its ranks a local administrator (*le Administrateur communal*) and may remove him from his functions for a valid reason, like corruption, incompetence, grave negligence or embezzlement of funds. For the following elections, the National Assembly and the Senate, following an evaluation, may legislate that the administrator is elected by direct universal suffrage.

None of the principal ethnic components may be represented by more than sixty-seven percent (67%) of local administrators at the national level. The Independent National Electoral Commission ensures the observance of this principle.

#### **Article 267**

The State supervises the harmonious and balanced development of all municipalities of the country on the basis of national solidarity.

## **TITLE XII THE NATIONAL COUNCILS**

#### **Article 268**

In order to ensure a large participation of the citizens in the management of public affairs, the State establishes the following national councils:

- the National Council for National Unity and Reconciliation (*le Conseil National pour l'Unité Nationale et la Réconciliation*);
- the National Monitoring Unit (*l'Observatoire National*) for the prevention and eradication of genocide, war crimes and crimes against humanity;
- the National Security Council (*le Conseil National de Sécurité*);
- the Economic and Social Council (*le Conseil Economique et Social*);

- the National Council of Communication (*le Conseil National de la Communication*).

The Government grants these councils the means necessary for their functioning.

## **Chapter 1**

### **The National Council for National Unity and Reconciliation**

#### ***Article 269***

The National Council for National Unity and Reconciliation is a consultative organ charged, among other things:

- to reflect and give advice on all essential questions concerning unity, peace and national reconciliation, in particular those relating to the primary missions of the institutions;
- to follow regularly the development of the Burundian society from a perspective guided by the issue of national unity and reconciliation;
- to issue periodically a report on the state of national unity and reconciliation and to disseminate it throughout the nation;
- to issue proposals with a view to the improvement of the situation with regard to national unity and reconciliation in the country;
- to conceive and to initiate the measures necessary with a view to rehabilitate the institution of Ubushingantahe in order to make it into an instrument of peace and social cohesion;
- to issue advice and proposals on other matters interesting the nation.

The National Council for National Unity and Reconciliation is consulted by the President of the Republic, the Government, the National Assembly and the Senate.

It may also issue advice and make it public on its own initiative.

#### ***Article 270***

The National Council for National Unity and Reconciliation is composed of individuals recognized for their moral integrity and the interest they have for the life of the nation and, more particularly, its unity.

The members of the National Council for National Unity and Reconciliation are appointed by the President of the Republic in concert with the Vice-Presidents of the Republic.

#### ***Article 271***

The members of the National Council for National Unity and Reconciliation must take an oath to defend national unity and to promote reconciliation.

#### ***Article 272***

The National Council for National Unity and Reconciliation produces an annual report which it submits to the President of the Republic, the Government, the National Assembly and the Senate.

#### ***Article 273***

An organic law specifies the composition and determines the organization and functioning of the National Council for National Unity and Reconciliation.



## **Chapter 2**

### **The National Monitoring Unit for the Prevention and Eradication of Genocide, War Crimes and Crimes Against Humanity**

#### ***Article 274***

The National Monitoring Unit for the prevention and the eradication of genocide, war crimes and other crimes against humanity is a consultative organ charged, in particular:

- to follow regularly the development of the Burundian society from a perspective guided by the issue of genocide, war crimes and other crimes against humanity;
- to prevent and eradicate the acts of genocide, war crimes and other crimes against humanity;
- to suggest measures for an effective fight against the impunity of crimes;
- to promote the creation of a regional monitoring unit;
- to promote a national inter-ethnic front of resistance against genocide, war crimes and other crimes against humanity, as well as against globalization and collective culpability;
- to promote legislation against genocide, war crimes and the other crimes against humanity, and to monitor their strict observance;
- to propose policies and measures for the rehabilitation of the victims of genocide, war crimes and the other crimes against humanity;
- to contribute to the implementation of a large sensitization and education program for peace, unity and national reconciliation.

#### ***Article 275***

The National Monitoring Unit for the prevention and eradication of genocide, war crimes and the other crimes against humanity produces an annual report which it submits to the President of the Republic, the Government, the National Assembly and the Senate.

#### ***Article 276***

An organic law determines the missions, composition, organization and functioning of the National Monitoring Unit for the prevention and eradication of genocide, war crimes and the other crimes against humanity.

## **Chapter 3**

### **The National Security Council**

#### ***Article 277***

The National Council of Security is a consultative organ with the task to assist the President of the Republic and the Government in the elaboration of policy in security matters, in the monitoring of the situation of the country in security matters and in the elaboration of strategies on defense, security and maintenance of order in case of crisis.

The Council monitors carefully the state of national unity and cohesion within the ranks of defense and security forces.

The Council may be consulted on any other issue in relation with the security of the country.

The Council produces an annual report which it submits to the President of the Republic, the Government, the National Assembly and the Senate.

***Article 278***

The members of the National Security Council are appointed by the President of the Republic in concert with the Vice-Presidents of the Republic.

***Article 279***

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

## **Chapter 4**

### **The Economic and Social Council**

***Article 280***

The Economic and Social Council is a consultative organ having competence in all aspects of the economic and social development of the country.

It is obligatorily consulted on any development plan project, on issues of the environment and the conservation of nature as well as any project of regional or sub-regional integration.

The Economic and Social Council may, on its own initiative, draw the attention of the National Assembly, the Senate or the Government by way of recommendations to the economic and social reforms which it deems consonant with or contrary to the general interest.

It also gives its advice on all questions brought to its attention by the President of the Republic, the Government, the National Assembly, the Senate or by another public institution.

***Article 281***

The Economic and Social Council is composed of members chosen for their competence in the different socioprofessional sectors of the country.

The members of the Economic and Social Council are appointed by the President of the Republic in concert with the Vice-Presidents of the Republic.

***Article 282***

The Economic and Social Council produces an annual report which it submits to the President of the Republic, the Government, the National Assembly and the Senate.

***Article 283***

An organic law determines the missions, composition, organization and functioning of the Economic and Social Council.

## **Chapter 5**

### **The National Council of Communication**

#### ***Article 284***

The National Council of Communication supervises the freedom of audio-visual and written communication, in respect of the law, public order and morality.

To this effect, the National Council of Communication has decision-making powers namely with regard to the respect and promotion of the freedom of the press and the equitable access of the diverse political, social, economic and cultural opinions to the public media.

The National Council of Communication also plays a consultative role for the Government in matters of communication.

#### ***Article 285***

The National Council of Communication is composed of members chosen in the communication sector and in the diverse groups of media users on the basis of the interest which they show for social communication and the freedom of press, expression and opinion.

#### ***Article 286***

The members of the National Council of Communication are appointed by the President of the Republic in concert with the Vice-Presidents of the Republic.

#### ***Article 287***

The National Council of Communication produces an annual report which it submits to the President of the Republic, the Government, the National Assembly and the Senate.

#### ***Article 288***

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

## **TITLE XIII**

### **INTERNATIONAL TREATIES AND AGREEMENTS**

#### ***Article 289***

The President of the Republic exercises the superior (*haute*) direction in international negotiations. He signs and ratifies the treaties and international agreements.

#### ***Article 290***

The peace and commerce treaties, treaties relating to international organization, treaties which engage the finances of the State, [and] those that modify provisions of a legislative nature as well as those relating to the status of persons may be ratified only by virtue of a law.

***Article 291***

The Republic of Burundi may create with other States international organizations of joint management and coordination and of free cooperation. The Republic may conclude association or community agreements with other States.

***Article 292***

Treaties take effect only after having been duly ratified and subject to their application by the other party in the case of bilateral treaties and the fulfillment of the conditions for entry into force specified by them in the case of multilateral treaties.

***Article 293***

Agreements authorizing the storing of toxic wastes or other substances likely to seriously harm the environment are prohibited.

***Article 294***

The defense and security forces may take part in international peace-keeping operations in the world. No armed Burundian force may be deployed outside the national boundaries without prior authorization by the President of the Republic after consultation of the Vice-Presidents of the Republic and the National Security Council.

The National Assembly and the Senate must be informed within a period not exceeding seven (7) days.

***Article 295***

Any cession, any exchange, any adjunction of territory is invalid without the consent of the Burundian people expressed by referendum.

***Article 296***

When the Constitutional Court, upon request by the President of the Republic, the President of the National Assembly, the President of the Senate, a quarter (1/4) of the members of the National Assembly or of the Senate, has declared that an international obligation contains a clause contrary to the Constitution, the authorization to ratify that obligation may only be granted after the revision of the Constitution.

## **TITLE XIV THE REVISION OF THE CONSTITUTION**

***Article 297***

The right to initiate a revision of the Constitution belongs concurrently to the President of the Republic after consultation with the Government, the National Assembly or the Senate deciding respectively with an absolute majority of the members which compose them.

**Article 298**

The President of the Republic may submit a draft amendment of the Constitution to a referendum.

**Article 299**

No amendment procedure shall be accepted if it undermines national unity, the cohesion of the Burundian people, the secular character of the State, reconciliation, democracy or the territorial integrity of the Republic.

**Article 300**

The bill or proposal of amendment is adopted by a four-fifths (4/5) majority of the members composing the National Assembly and two-thirds (2/3) of the members of the Senate.

**TITLE XV  
SPECIAL PROVISIONS FOR THE FIRST STAGE OF THE POST-  
TRANSITION PERIOD**

**Article 301**

Any person who has exercised the functions of President of the Republic during the transition period is ineligible in the first presidential elections.

**Article 302**

Exceptionally, the first President of the Republic of the post-transition period is elected by the National Assembly and the Senate convened in Congress, with a majority of two-thirds (2/3) of the members. If this majority is not obtained on the first two (2) ballots, further ballots are held immediately, until a candidate obtains the votes equal to two-thirds (2/3) of the members of Parliament.

In the case of a vacancy of the first President of the Republic of the post-transition period, his successor is elected in accordance with the same modalities as defined in the preceding paragraph.

The President elected for the first post-transition period may not dissolve Parliament.

**Article 303**

Equally exceptionally and only in the first elections of the deputies and only if one party gains more than three-fifths (3/5) of the Parliamentary seats in a direct vote, a total number of eighteen (18) to twenty-one (21) additional members are co-opted in equal numbers from the lists of all parties which have obtained the prescribed minimum threshold of votes or in the ratio of two persons per party if more than seven (7) parties fulfill the required conditions.

**TITLE XVI  
TRANSITORY PROVISIONS**

**Article 304**

While awaiting the establishment of the institutions which are set up by elections in accordance with the present Constitution, the transition institutions and the territorial administration continue to function until the date which is determined in accordance with the timetable established by the Independent National Electoral Commission.

## **TITLE XVII FINAL PROVISIONS**

### ***Article 305***

To the extent that they are not contrary to the Constitution, the statutory and regulatory provisions [adopted] prior to entry into force [of the Constitution] remain in application until their modification or their abrogation.

### ***Article 306***

The *Transitional Constitution of the Republic of Burundi* promulgated on October 28, 2001, is abrogated.

### ***Article 307***

The present Post-Transition Interim Constitution of the Republic of Burundi enters into force on November 1, 2004 and remains in application until the promulgation of the Post-Transition Constitution adopted by referendum.