



# **The Constitution Of The Republic of Guinea**

# **The Constitution Of The Republic of Guinea**

## **Constitution of 7 May 2010**

PRESIDENCY OF THE REPUBLIC NATIONAL COUNCIL FOR DEMOCRACY AND  
DEVELOPMENT

GENERAL SECRETARIAT OF THE GOVERNMENT  
DECREE D/068/PRG/CNDD/SGPRG/2010

Promulgating the Constitution adopted by the National Council of Transition the  
19 April 2010

THE PRESIDENT OF THE TRANSITION, PRESIDENT OF THE REPUBLIC  
BY INTERIM

Considering the Communiqué n°001/CNDD/2008 of 23 December 2008, concerning effective taking of power by the National Council for Democracy and Development [Conseil National pour la Démocratie et le Développement (CNDD)], Suspension of the Constitution and dissolution of the Government;

Considering the Ordinance n°006/PRG/CNDD/2008 of 29 December 2008, concerning creation of a position of Prime Minister;

Considering the Ordinance n°001/PRG/CNDD/SGPRG/2010 of 9 February 2010, concerning creation of the National Council of Transition [Conseil National de la Transition (CNT)];

Considering the Ordinance n°006/PRG/CNDD/SGPRG/2010 of 5 May 2010, concerning attributions and composition of the National Council of Transition [Conseil National de la Transition (CNT)];

Considering the Record [Procès Verbal] of the Meeting of the CNDD on the date of 6 January 2010 designating Monsieur the Minister of the National defense, 2nd Vice-President of the CNDD as President of the Republic by interim;

Considering the Agreements of Ouagadougou on the date of 15 January 2010, designating Monsieur the Minister of the National Defense, 2nd Vice-President of the CNDD as President of the Republic by interim, President of the Transition;

Considering the Decree n°001/PRG/CNDD/SGPRG/2010 of 19 January 2010, concerning appointment of the Prime Minister, Head of the Government of National Unity of the Transition;

Considering the Decree n°003/PRG/CNDD/SGPRG/2010 of 3 February 2010, concerning restructuration of the Government;

Considering the Decree n°004/PRG/CNDD/SGPRG/2010 of 9 February 2010 concerning appointment of the Presidency and of the Two Vice-Presidencies of the National Council of Transition [Conseil National de Transition (CNT)];

Considering the Decree n°014/PRG/CNDD/SGPRG/2010 of 7 March 2010, concerning appointment of the statutory members of the National Council of Transition [Conseil National de Transition (CNT)];

Considering the letter of mission of the National Council of Transition, on the date of 18 February 2010;

DECREES:

## **ARTICLE 1**

The Constitution adopted by the National Council of Transition the 19 April 2010 is promulgated in the following tenor:

### **PREAMBLE**

By its vote of 28 September 1958, the People of Guinea opted for freedom and constituted, [on] 2 October 1958, a sovereign State: THE REPUBLIC OF GUINEA;  
Drawing [tirant] the lessons from their past and from the political changes intervening since then;

THE PEOPLE OF GUINEA,

Proclaim:

- Their adhesion to the ideals and principles, rights and duties established in the Charter of the Organization of the United Nations, the Universal Declaration of the Rights of Man, the International Conventions and Pacts relative to the Rights of Man, the constitutive Act of the African Union, the African Charter of the Rights of Man and of Peoples and its additional protocols relative to the rights of women, as well as the revised Treaty of the Economic Community of West African States (ECOWAS) [Communauté Économique des États d’Afrique de l’Ouest (CEDEAO)] and its protocols on democracy and good governance.

Reaffirms:

– Their willingness to edify within the unity and the national cohesion, a State of Law and of Pluralist Democracy.

– Their willingness to promote the good governance and to fight resolutely against corruption and economic crimes. These crimes are imprescriptible.

– Their willingness to establish relations of amity and of cooperation with all the Peoples of the world on the basis of the principles of equality, of respect for the national sovereignty, for the territorial integrity and for the reciprocal interest;

– Their attachment to the cause of the African unity, of the sub-regional and regional integration of the continent. Free to determine their institutions, the People of Guinea adopts this Constitution.

## **TITLE I OF THE SOVEREIGNTY OF THE STATE**

### Article 1

Guinea is a unitary republic, indivisible, secular, democratic and social.

It assures the equality before the law of all the citizens without distinction of origin, of race, of ethnicity, of gender [sexe], of religion and of opinion.

It respects all beliefs.

The official language is French.

The State assures the promotion of the cultures and of the languages of the People of Guinea.

The flag is composed of three vertical and equal bands of color RED, YELLOW and GREEN.

The national anthem is “*LIBERTE* [Freedom]”.

The motto of the Republic is: “*TRAVAIL, JUSTICE, SOLIDARITE* [Work, justice, Solidarity]”.

Its principle is: *GOUVERNEMENT DU PEUPLE, PAR LE PEUPLE ET POUR LE PEUPLE* [Government of the People, by the People and for the People].

The Seals and the Arms of the Republic are codified by [the] regulatory way [voie].

## Article 2

The national sovereignty belongs to the People who exercise it by their elected representatives or by way of referendum.

No individual, no fraction of the People may arrogate its exercise.

Suffrage is universal, direct, equal and secret.

All Guinean citizens of majority, of one or the other gender, enjoying their civil and political rights are electors within the conditions determined by the law.

The elections are organized and supervised by an Independent National Electoral Commission.

Sovereignty is exercised in accordance with this Constitution which is the supreme Law of the State.

Any law, any regulatory text and administrative act contrary to its provisions are null and of null effect.

The principle of the separation and of the equilibrium of the Powers is consecrated.

## Article 3

The political parties participate [*concourent*] in the political education of the citizens, in the animation of the political life and in the expression of the suffrage. Only [*seuls*] they present the candidates to the national elections.

They must be implanted on the whole [*ensemble*] of the national territory. They must not identify themselves to a race, an ethnicity, a religion or a region.

They must equally respect the principles of the national sovereignty and of democracy, the integrity of the territory and the public order.

The rights of the political parties of the opposition to oppose themselves by the legal ways [*voies*] to the action of the Government and to propose alternative solutions are guaranteed.

An organic law determines the conditions in which the political parties are constituted and exercise their activities. It specifies the conditions in which a party that ignores [*méconnaît*] the provisions of the preceding paragraphs is no longer considered as legally constituted.

#### Article 4

The law punishes whoever [*quiconque*] by an act of racial, ethnic, [or] religious discrimination, by an act of regionalist propaganda, or by any other act, infringes the national unity, the security of the State, the integrity of the territory of the Republic or the democratic functioning of the institutions.

## **TITLE II OF THE FUNDAMENTAL FREEDOMS, DUTIES AND RIGHTS**

#### Article 5

The human person and their dignity are sacred. The State has the duty to respect them and to protect them. The rights and freedoms enumerated hereafter are inviolable, inalienable and imprescriptible.

They found all human society and guarantee peace and justice in the world.

#### Article 6

The human being has [the] right to the free development of his personality. He has [the] right to life and to physical and moral integrity; no one may be subjected to torture, to pain [*peines*] or to cruel, inhuman or degrading treatments.

No one is required to execute a manifestly illegal order.

The law determines the order manifestly illegal.

No one may take advantage [*se prévaloir*] of a received order or of an instruction to justify acts of torture, abuse [*sérvices*] or cruel, inhuman or degrading treatments committed in the exercise or on the occasion of the exercise of their functions.

No situation of exception or of emergency should [*ne doit*] justify the violations of human rights.

#### Article 7

Each one is free to believe, to think and to profess their religious faith, their political and philosophical opinions.

They are free to express, to manifest and to diffuse their ideas and opinions by words [*par la parole*], in writing and by images.

They are free to instruct [*s'instruire*] and to inform themselves at the sources accessible to everybody.

The freedom of the Press is guaranteed and protected. The creation of an organ of [the] press or of [the] media for political, economical, social, cultural, sports, recreational or scientific information is free.

The right of access to public information is guaranteed to the citizen. A law establishes the conditions of [the] exercise of these rights, the regime and the conditions of creation of the press and of the media.

#### Article 8

All human beings are equal before the law. Men and women have the same rights.

No one may be privileged or disadvantaged by virtue of [*en raison de*] their sex, of their birth, of their race, of their ethnicity, of their language, of their beliefs and of their political, philosophical or religious opinions.

#### Article 9

No one may be arrested, detained or condemned except by virtue of a law promulgated prior to the acts alleged against them, for the motives and in the forms specified by the law.

All have the imprescriptible right to address themselves to the judge to defend [*faire valoir*] their rights before the State and its agents [*préposés*].

Any person accused of a delinquent act is presumed innocent until their culpability has been legally established in the course of a procedure accordingly to the law.

All have right to a just and equitable process, in which the right to defend themselves [*se défendre*] is guaranteed.

The right to the assistance of a Lawyer [*Avocat*] is recognized from the instant of the interpellation or of the detention.

The law establishes the penalties necessary and proportional to the faults that can justify them.

#### Article 10

All citizens have the right of demonstration [*manifestation*] and of procession [*cortège*].

All citizens have the right to form associations and societies [*sociétés*] to exercise collectively their rights and their political, economic, social or cultural activities.

All citizens have the right to establish themselves and to circulate within the territory of the Republic, to enter in it [y] and to exit from it [y] freely.

#### Article 11

Whoever is persecuted by virtue of their political, philosophical or religious opinions, of their race, of their ethnicity, of their intellectual, scientific or cultural activities, for the defense of freedom has the right to asylum on the territory of the Republic.

#### Article 12

The domicile is inviolable.

It may be infringed only in the case of grave and imminent peril, to evade [*parer*] a common danger or to protect the life of the persons. All other infringement, all search may only be ordered by the judge or by the authority that the law designates and in the forms prescribed by it.



The secrecy of correspondence and of communication is inviolable. Each one has the right to the protection of their private life.

#### Article 13

The right to property is guaranteed. None may be expropriated if it is not in the interest legally declared of all and under reserve of a fair and prior indemnification.

#### Article 14

The free exercise of worship [*culte*] is guaranteed, under reserve of the respect for the law and the public order. The religious institutions and communities are created and administered freely.

#### Article 15

Each one has the right to health and to the physical well-being. The State has the duty to promote them, to fight against the epidemics and the social calamities [*fléaux*].

#### Article 16

Every person has the right to a healthy and lasting environment and the duty to defend it. The State sees to the protection of the environment.

#### Article 17

The transit, the importation, the storage, the dumping on the national territory of toxic waste or pollutants, and all agreements relative to the matter [y] constitute a crime against the Nation. The applicable sanctions are specified by the law.

#### Article 18

Marriage and family, which constitute the natural foundation of life in society, are protected and promoted by the State. Parents have the right and duty to assure the education and the physique and moral health of their children. Children owe care [*soin*] and assistance to their parents.

#### Article 19

Youth must be particularly protected by the State and the collectivities against exploitation and moral abandonment, sexual abuse, child trafficking and human commerce [*traite*].

The elderly persons and the handicapped persons have [the] right to the assistance and the protection of the State, the collectivities and the society.

The law establishes the conditions of assistance and of protection to which the elderly persons and the handicapped persons have right.

#### Article 20

The right to work is recognized to all. The State creates the conditions necessary for the exercise of this right.

No one may be prejudiced [*lésé*] in their work by virtue of their gender, of their race, of their ethnicity, of their opinions or of any other cause of discrimination.

Each one has the right to affiliate [*adhérer*] with the union of their choice and to defend their rights through union action. Each worker has the right to participate, by the intermediate of their delegates, to the determination of the conditions of work

The right to strike is recognized. It is exercised within the framework of the laws that govern [*régisents*] it. It may not in any case infringe the freedom of work.

The law establishes the conditions for the assistance and the protection to which the workers have right.

#### Article 21

The People of Guinea determine freely and sovereignly their Institutions and the economic and social organization of the Nation.

They have an inprescriptible right to its wealth. This must profit in an equitable manner all Guineans.

They have [the] right to the preservation of their patrimony, of their culture and of their environment.

They have the right to resist oppression.

#### Article 22

Each citizen has the duty to conform himself to the Constitution, to the laws and to the regulations.

Each citizen has the duty to participate in the elections, to promote tolerance, the values of democracy, to be loyal to [*envers*] the Nation.

Each citizen has the duty to respect the human person and the opinions of others.

Each citizen must contribute, to the extent of their means, to taxes and must fulfill their social obligations for the common good within the conditions determined by the law. Each citizen has the sacred duty of defending the Homeland [*Patrie*].

The public assets are sacred and inviolable. Every person must respect them scrupulously and protect them. Every act of sabotage, of vandalism, of diversion, of dilapidation, or of illicit enrichment is punished by the law.

#### Article 23

The State must promote the well-being of the citizens, to protect and to defend the rights of the human person and the defenders of human rights.

It sees to the pluralism of the opinions and of the sources of information.

It assures the security of each one and sees to the maintenance of the public order.

It assures the continuity of the Institutions and of the public services, within the respect for the Constitution.

It guarantees the equal access to public employment.

It favors the unity of the Nation and of Africa.

It cooperates with the other States to consolidate their independence, the peace, mutual respect and the amity among the Peoples.

It assures the teaching [*enseignement*] of youth which is obligatory.

It creates the conditions and the institutions allowing all to form themselves [*se former*].

#### Article 24

The law guarantees to all the exercise of the fundamental freedoms and rights. It determines the conditions in which they are exercised.

It may only establish[,] concerning these freedoms and these rights, those limits that are indispensable to maintain the public order and democracy.

The groups whose purpose or activity is contrary to the laws or that manifestly trouble the public order may be dissolved.

#### Article 25

The State has the duty to assure the diffusion and the teaching of the Constitution, of the Universal Declaration of the Rights of Man of 1948, of the African Charter of the Rights of Man and of Peoples of 1981 as well as of all international instruments duly ratified relative to Human Rights.

The State must integrate the rights of the human person in the programs of literacy [*alphabétisation*] and of teaching in the different schooling and university cycles and in all the programs of training of the armed forces, the forces of public security and similar forces.

The State must equally assure in the national languages by all means of mass communication, in particular by radio and television, the diffusion and the teaching of these same rights.

#### Article 26

Whoever occupies a public office [*emplois*] or exercises a public function is accountable for their activity and must respect the principle of neutrality of the public service. They must not use their functions for other ends than the interest of all.

### **TITLE III**

#### **OF THE EXECUTIVE POWER**

##### **SUB-TITLE 1**

#### **OF THE PRESIDENT OF THE REPUBLIC**

#### Article 27

The President of the Republic is elected by universal direct suffrage.

The duration of his mandate is five years, renewable one time.

In any case, no one may exercise more than two presidential mandates, consecutive or not.

#### Article 28

The ballot for the election of the President of the Republic takes place ninety days at most and sixty days at least before the date of expiration of the mandate of the President of the Republic in function.

The President of the Republic establishes the day of the ballot at least sixty days before this one.

If there is need [lieu] to proceed to a second round of the ballot, this one is established on the fourteenth day after the proclamation of the definitive results of the first round.

#### Article 29

All candidates to the Presidency of the Republic must be of Guinean nationality, enjoying their civil and political rights, in a state of good health certified by a College of sworn Doctors designated by the Constitutional Court and thirty-five years old at least.

The candidatures are presented at the *Greffe* [Registry] of the Constitutional Court forty days at least and sixty days at most before the date of the ballot. No candidature is receivable if it is not presented by a legally constituted political party.

Each party may only present one sole candidacy.

Thirty-nine days before the ballot, the Constitutional Court orders [arrête] and publishes the list of the candidates. The electors are then convoked by decree.

#### Article 30

In the case of death or of definitive incapacity declared by the Constitutional Court of a candidate figuring on the list specified in Article 29, the Constitutional Court decides, if there is need, to reopen the time periods during which new candidatures can be deposited. In this case a new date of the ballot is established within the conditions specified in Article 28.

#### Article 31

The electoral campaign is opened thirty days before the election and closed the eve at zero (0) hours.

In the case of a second round, the electoral campaign is opened the next day after the proclamation of the results of the first round and closed the eve of the ballot of the second round at zero (0) hours.

#### Article 32

The candidate who obtained the absolute majority of the expressed suffrages is elected.

In the case that, at the end [*à l'issue du*] of the first round, no candidate reached this majority, it proceeds to a second round of the ballot within the conditions specified in Article 28.

Only the two candidates may present themselves who, the case arising[,] after the withdrawal [*retrait*] of the more favored candidates, find themselves having received the greater number of votes in the first round.

The Constitutional Court sees to the regularity of the electoral campaign and to the equality of the candidates for the utilization of the means of propaganda, within the conditions determined by an organic law.

#### Article 33

If no objection [*contestetion*] relative to the regularity of the electoral operations has been presented by one of the candidates to the *Greffe* of the Constitutional Court within the eight days that follow the day when the first global totalization has been rendered public, the Constitutional Court proclaims the President of the Republic elected.

In the case of dispute [*contestation*], the Constitutional Court decides within the three days that follow its referral [to the matter]. Its order carries [*emporte*] proclamation or annulment of the election.

In the case of annulment of the election, new elections are organized within ninety days.

#### Article 34

The elected President of the Republic enters [into] his function on the day of expiration of the mandate of his predecessor.

In the case that, following the annulment of an election, none of the candidates has been proclaimed elected to this date, the President in office [*exercice*] remains in [his] function until the proclamation of the results.

In the case of death or of definitive incapacity of one of the candidates to the second round, before the proclamation of the definitive results, if the deceased candidate is he who obtained the greater number of votes, the Constitutional Court decides on the reprise of the whole [*ensemble*] of the electoral operations.

In the case of death, of definitive incapacity or of withdrawal of one of the candidates between the order for the publication of the list of candidates and the first round, the organization of the election is entirely reprise with a new list of candidates.

In the case of death, of definitive incapacity or of withdrawal of one of the two candidates arriving ahead between the ballot of the first round and the provisional proclamation of the results, or between this provisional proclamation and the definitive proclamation of the results of the first round by the Constitutional Court, the candidate following in the order of the votes is admitted to present himself to the second round.

In the case of death, of definitive incapacity or of withdrawal of one of the two candidates arriving ahead between the proclamation of the definitive results of the first round and the ballot of the second round, the candidate following on the list of the results of the first round is admitted to the second round.

In the previous cases, the Constitutional Court declares the death, the definitive incapacity or the withdrawal and establishes a new date of the ballot.

In the case of death or of definitive incapacity of the elected President of the Republic, before entering into his function, it proceeds to new elections within the time period of sixty days, the President in office [*exercice*] remains in [his] function until the proclamation of the results.

By derogation of Article 40, in the case of death or of definitive incapacity of the President of the Republic in office before the entering into [his] function of the elected President, this one enters immediately into [his] function.

#### Article 35

The President of the Republic is installed into his functions after having taken an oath before the Constitutional Court, in these terms:

I \_\_\_\_\_, elected President of the Republic in accordance with the laws, I swear before the People of Guinea and on my honor to respect and to have respected scrupulously the provisions of the Constitution, of the laws and of the decisions of justice, to defend the Constitutional Institutions, the integrity of the territory and the national independence.

In the case of perjury that I undergo [*subisse*] the rigors of the law.

#### Article 36

After the ceremony of investiture and at the end of his mandate, within a time period of forty-eight (48) hours, the President of the Republic solemnly remits to the President of the Constitutional Court the written declaration on [his] honor of his assets. The Ministers before their entering into [their] functions and at the end of them present to the Constitutional Court the declaration on the honor of their assets.

The initial declaration and that of the end of the mandate or of the functions are published in the Journal *Officiel* [Official Gazette].

The copy of the declaration of the President of the Republic and of the members of the Government is communicated to the Court of Accounts and to the tax [*fiscaux*] services.

The discrepancies [*écarts*] between the initial declaration and that of the end of the mandate or of the functions must be duly justified.

The provisions of this Article apply to the President of the National Assembly, to the first [*premiers*] responsible [persons] of the Constitutional Institutions, to the Governor of the Central Bank and to the responsible [persons] of the financial administrations [*régies*] of the State.

#### Article 37

The President of the Republic is protected against the offenses, the insults [*injures*] and the calumnies within the conditions that the law determines.

#### Article 38

The responsibility [*charge*] of President of the Republic is incompatible with the exercise of any other public or private function, even elective. He must notably cease all responsibilities [*responsibilités*] within [*au sein*] a political party.



#### Article 39

During his mandate, the President of the Republic may not, by himself, by a member of his family and even by others, purchase or lease an asset that belongs to the domain of the State, without the authorization of the Constitutional Court within the conditions established by the law.

He may not take part, by himself or by others, in the public and private markets for the administrations or institutions arising within [relevant de] the State or submitted to his control.

This provision applies to the Prime Minister, to the Ministers and to the Presidents of the Constitutional Institutions.

#### Article 40

The physical or mental incapacity duly declared by a college of specialized doctors rendering the President of the Republic unfit to exercise the responsibilities [*charges*] of his function[,] is considered definitive incapacity.

#### Article 41

The vacancy of the function of President of the Republic consecutive to death, to resignation, or to any other cause of definitive incapacity is declared by the Constitutional Court.

The Constitutional Court, referred [to the matter] to this end, by the President of the National Assembly, [or] in the case of impediment of him by one of the Vice-Presidents, [or] by default by a group of Deputies representing one-quarter (1/4) of the National Assembly, declares the vacancy of the power.

#### Article 42

The interim is assured by the President of the National Assembly or, in the case of impediment of him, by one of the Vice-Presidents of the National Assembly in the order of precedence.

The maximum duration of the interim is ninety days.

The ballot for the election of the President of the Republic takes place, except in the case of force majeure declared by the Constitutional Court, thirty-five days at least and fifty days at most after the opening of the vacancy.

#### Article 43

The Interim of the President of the Republic extends to all the functions of [the President], except the right of recourse to the referendum, to pronounce the dissolution of the National Assembly, to take the initiative of a revision of the Constitution, [or] to exercise the right of pardon.

#### Article 44

The former Presidents of the Republic protocol rank [*rang protocolaire*] immediately after the President of the Republic in the order of the seniority of their mandate and before the President of the National Assembly.

They can be charged with special missions by the President of the Republic. They benefit from material advantages and from a protection within the conditions that an organic law determines.

#### Article 45

The President of the Republic is the Head of the State. He presides over the Council of Ministers.

He sees to the respect for the Constitution, for the international engagements, for the laws and the decisions of justice.

He assures the regular functioning of the public powers and the continuity of the State.

He determines and controls the conduct of the policy of the Nation.

He incarnates the national unity.

The President of the Republic is above the political parties

#### Article 46

The President of the Republic has at his disposal of the regulatory power[,] which he exercises by decree.

He establishes by decree the attributions of each Minister. He can delegate a part of his powers to the Prime Minister.

He appoints in the Council of Ministers to the civil offices [*emplois*] of which [*dont*] the list is established by an organic law.

#### Article 47

The President of the Republic is the guarantor of national independence, of the integrity of territory and of the national cohesion.

He is responsible for the national defense. He presides over the Superior Council of National Defense.

He is the Head of the Armies. He appoints to all the military offices [*emplois*]. The President of the Republic may, in addition to the specialized functions of defense of the territorial integrity attributed to the Army, have it participate [*concourir*] in the economic development of the Nation and in all other tasks of public interest within the conditions specified by the law.

#### Article 48

The President of the Republic accredits the ambassadors and the extraordinary envoys to Foreign Powers.

The ambassadors and the extraordinary envoys from Foreign Powers are accredited to him.

#### Article 49

The President of the Republic exercises the right of pardon.

#### Article 50

The President of the Republic pronounces one time per year before the National Assembly a message on the state [*état*] of the Nation. He may also at any moment address messages to the Nation and to the National Assembly.

He does not participate in the debates of the National Assembly.

When he addresses a message to the National Assembly, the message is read by a Minister.

#### Article 51

The President of the Republic may, after consultation with the President of the National Assembly, submit to referendum any bill of law concerning [*portant sur*] the organization of the public powers, the promotion and the protection of the fundamental freedoms and rights, or the economic and social action of the State, or tending to authorize the ratification of a treaty.

He must, if the National Assembly demands it by a resolution adopted by a majority of two-thirds of the members that compose it, submit to referendum any proposal of law concerning [*portant sur*] the organization of the public powers or concerning the fundamental freedoms and rights.

Before convoking the electors by decree, the President of the Republic obtains the opinion [*avis*] of the Constitutional Court on the conformity of the bill or the proposal of law to the Constitution.

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

The Constitutional Court sees to the regularity of the operations of the referendum.

When the referendum has concluded in the adoption of the bill or of the proposal of law, the law so adopted is promulgated within the conditions specified in Article 78.

### **SUB-TITLE II OF THE PRIME MINISTER**

#### Article 52

The Prime Minister, Head of the Government is appointed by the President of the Republic who may dismiss him.

He is given the charge of directing, controlling, coordinating and stimulating [*impulser*] the action of the Government.

#### Article 53

The Prime Minister proposes to the President of the Republic the structure and the composition of the Government.

The President of the Republic appoints the Ministers and terminates their function, after consultation with the Prime Minister.

The Prime Minister is responsible to the President of the Republic.

#### Article 54

The quality of member of the Government is incompatible with a parliamentary mandate and any public or private professional remunerated activity.

#### Article 55

The members of the Government are responsible for the direction of their respective department to the Prime Minister. They are collectively [*solidairement*] responsible for the decisions of the Council of Ministers.

#### Article 56

On delegation by the President of the Republic, the Prime Minister may assure the presidency of the Council of Ministers for a specific agenda.

#### Article 57

After his appointment, the Prime Minister makes a Declaration of General Policy followed by a debate without vote before the National Assembly.

#### Article 58

The Prime Minister has the Administration at his disposal and appoints to all the civil offices [*emplois*], except those reserved to the President of the Republic.

He assures the execution of the laws and of the decisions of justice; to this effect, he has at his disposal the regulatory power, under reserve of the provisions of Articles 46 and 49 of the Constitution. The Prime Minister is responsible for the promotion of the social dialogue and sees to the application of the agreements with the social partners and the political parties.

The Prime Minister presides over the Inter-ministerial Councils. He presides over the ministerial meetings or designates, to this end, a Minister.

He may delegate certain of his powers to the Ministers.

**TITLE IV**  
**OF THE LEGISLATIVE POWER**

Article 59

The representative assembly of the People of Guinea bears the name of National Assembly. Its members bear the title of Deputies.

Article 60

The Deputies to the National Assembly are elected by universal direct suffrage. The duration of their mandate is five years, except in the case of dissolution. It may be renewed.

The minimum age to be eligible to the National Assembly is to be already [*révolu*] 25 years old.

Article 61

No one may be a candidate if he is not presented by a political party legally constituted.

The conditions of eligibility, the regime of the ineligibilities and of the incompatibilities are established by an organic law.

Article 62

The Constitutional Court sees to the regularity of the ballot and of the electoral campaign that precedes it. It receives and judges the eventual challenges [*contestations*].

Article 63

One-third of the Deputies are elected by uninominal ballot in one round. An organic law establishes the electoral circumscriptions.

Two-thirds of the Deputies are elected by national list ballot [*scrutin de liste nationale*], by proportional representation. The seats not attributed to the national quotient are allocated [*répartis*] *au plus fort reste* [by a proportional system of greatest remaining percentage].

Article 64

An organic law establishes the number of Deputies and the amount of their indemnity.

It determines equally the conditions in which the persons called to assure, in the case of vacancy, the replacement of Deputies until the general renewal of the National Assembly[,] are elected.

#### Article 65

No member of the National Assembly may be prosecuted, investigated, arrested, detained or judged on the occasion of the opinions or the votes emitted by them in the exercise of the functions of Deputy.

No Deputy may, during the duration of the sessions, be prosecuted or arrested, in penal matters, without [*qu'avec*] the authorization of the National Assembly except in the case of flagrante delicto.

No Deputy may, outside of [the] sessions, be arrested or detained without [*qu'avec*] the authorization of the Bureau of the National Assembly, except in the case of flagrante delicto, of prosecution authorized by the National Assembly or of definitive conviction [*condemnation*].

The preventive detention or the prosecution of a Deputy is suspended if the National Assembly requires it.

#### Article 66

The President of the National Assembly is elected for the duration of the legislature.

#### Article 67

The Internal Regulations of the National Assembly are established by an organic law that determines:

- the composition and the rules of functioning of the Bureau of the Assembly;
- the number, the mode of designation, the composition and the competence of the permanent commissions;
- the modalities of creation of the temporary special commissions;
- the organization of the administrative services placed under the authority of the President of the National Assembly;

- the rules of procedure [*déroulement*] of the debates, of [*prises de parole*] speaking, of the vote and the disciplinary regime of the Deputies;
- in a general manner, all rules having as [their] objective the functioning of the National Assembly within the framework of the competences that the Constitution attributes to it.

#### Article 68

The National Assembly meets of plain right in ordinary session two times per year.

- The first session opens on 5 April, its duration may not exceed ninety (90) days;
- The second session opens on 5 October, its duration may not exceed ninety (90) days;

If 5 April or 5 October is a holiday [*jour férié*], the opening of the session takes place on the first business [*ouvrable*] day that follows.

#### Article 69

The National Assembly meets in extraordinary session either at the initiative of the President of the Republic, or at the demand of the majority of the members who compose it, on a determined agenda. The extraordinary session is closed as soon as the National Assembly has exhausted the agenda.

The Deputies may not demand a new extraordinary session before the expiration of the month following the closure of a session.

Except in the cases where the National Assembly meets as of plain right, the extraordinary sessions are opened or closed by decree.

#### Article 70

Any imperative mandate is null.

The right to vote of the Deputies is personal. The Internal Regulations may authorize, exceptionally, the delegation of the vote. In this case, no one may receive the delegation of more than one mandate.

#### Article 71

The sittings of the National Assembly are public. Nevertheless, it may, by a vote of the majority of the members who compose it, decide to sit in closed sessions. The complete



record [*compte-rendu intégral*] of the debates is published in the *Journal Officiel* [Official Gazette].

**TITLE V**  
**OF THE RELATIONS BETWEEN THE PRESIDENT OF**  
**THE REPUBLIC AND THE NATIONAL ASSEMBLY**

Article 72

Under reserve of the provisions of Article 51, the National Assembly alone votes the law and controls the governmental action.

The law establishes the rules concerning:

- the guarantees of the freedoms, [and] of the fundamental rights, the conditions within which they are exercised and the limitations that may be brought [*portées*] to them;
- the civic rights, nationality, the status [*état*] and the capacity of persons, the matrimonial regimes, inheritance and gifts;
- the constraints [*sujétions*] imposed for the national defense on the citizens, on their persons and on their assets;
- the determination of the infractions, the penalties that are applicable to them, the penal procedure, amnesty, the creation and the composition of the orders of jurisdiction and the status of the Magistrates;
- the base [*l'assiette*], the rate, the modalities for recovering and controlling the taxes of any nature and the obligatory contributions;
- the electoral regime of the National Assembly, in that which is not indicated by the Constitution, the electoral regime of the elected Councils of the local collectivities;
- the fundamental guarantees granted to the civil and military functionaries of the State:
- the regime of emission of the currency
- the creation of categories of public establishments;
- expropriation, the nationalization or the privatization of enterprises;
- the creation of local collectivities.

The law determines the fundamental principles:

- of the general organization of the national defense and of the maintenance of the public order;
- of the free administration of the local collectivities, of their competences,
- of teaching [*enseignement*] and of the scientific research; - 19 –
- of the regime of property, of real rights and of civil and commercial obligations;
- of the right to work [*droit du travail*], of the syndical right and of the social protection;
- of the determination of the status of the diplomatic and consular corps;
- of the cultural development and of the protection of the patrimony and of the environment.

#### Article 73

The laws of finance [*lois de finances*] determine each year all [*l'ensemble*] of the resources and of the charges of the State, within the conditions and under the reserves specified by an organic law.

The law of regulation [*loi de règlement*] declares the financial results of each civic year and approves the differences between the results and the projections [*prévisions*] of the law of finance of the preceding year.

It is voted on the foundation of the report of the Court of Accounts addressed to the National Assembly.

The plan laws [*lois de plan*] establish the multiannual orientations of the development of the Nation and the engagements of the State.

The program laws [*lois de programme*] determine by sector the objectives of the economic and social action of the State.

#### Article 74

The matters other than those that are of the domain of the Law have a regulatory character.

When the provisions of a law intervene in these other matters, they can be modified by decree, after the Constitutional Court has declared the regulatory character.

#### Article 75

The National Assembly votes the budget in equilibrium. It is referred to [the matter] of the bill of the Law of Finance by the Government no later than 15 October.

The Law of Finance is voted no later than 31 December.

If on the date of 31 December, the budget is not voted, the provisions of the bill of the Law of Finance may be brought into force by Ordinance.

The Government refers [the matter] for ratification to the National Assembly convoked in extraordinary session within a time period of fifteen days.

If the National Assembly has not voted the budget at the end of the extraordinary session, the budget is definitively established by Ordinance.

#### Article 76

The National Assembly has at its disposal sixty days at most to vote the Law of Finance.

If, for reasons of force majeure, the President of the Republic could not present the bill of the Law of Finance in a timely fashion, the ordinary session is followed immediately and of plain right, by an extraordinary session of which the duration is at most equal to the time necessary to cover the time period going from the day of the presentation of the bill of law to the sixtieth day following.

If, at the expiration of that time period, the bill of the law of finance has not been adopted, it can be brought into force by decree, taking into account the amendments voted by the National Assembly and accepted by the President of the Republic.

If, taking into account the procedure specified above, the law of finance of the year could not be brought into force before the beginning of the fiscal year [*exercice*], the President of the Republic demands of urgency of the National Assembly the authorization to collect taxes.

It decides within two days. The President of the Republic is authorized to renew [*reconduir*] by decree the budget of functioning of the preceding year.

#### Article 77

The Court of Accounts assures the control a posteriori of the execution of the laws of finance. It makes a report of it to the National Assembly.

#### Article 78

After its adoption by the National Assembly, the law is transmitted without delay to the President of the Republic.

The President of the Republic promulgates the law within ten days. The time period runs eight clear [*francs*] days after the transmission of the law adopted.

#### Article 79

Within the time period of ten days established for the promulgation, the President of the Republic may, by message, demand of the National Assembly a new deliberation, which cannot be refused.

The time period for promulgation is then suspended.

The law can be voted on second reading only if two-thirds of the members composing the National Assembly decide on its adoption. Its inscription in the agenda is of priority if the majority of the members composing the National Assembly so demands.

#### Article 80

Within the eight clear [*francs*] days that follow the adoption of a law, the President of the Republic, at least one-tenth of the Deputies or the Independent National Institution for Human Rights, may refer the Constitutional Court to [the matter] of a recourse looking to [*visant*] have it control the conformity of the law with the Constitution. The time period for promulgation is then suspended.

The Constitutional Court decides within the thirty days that follow its referral or if the President of the Republic so demands, within eight days. The Order [*Arrêt*] of the Constitutional Court is published in the *Journal Officiel* [Official Gazette].

A provision of a law declared non-conforming with the Constitution may not be promulgated or applied. The Order of the Constitutional Court imposes itself on all.

The time period for promulgation runs counting from the publication of the Order of the Constitutional Court which declares the law conforming to the Constitution.

#### Article 81

In the case of non-promulgation of a law by the President of the Republic in the time periods established, the law enters into force. The Constitutional Court - 21 - orders its registration and its publication in the *Journal Officiel* [Official Gazette].

#### Article 82

The National Assembly may enable [*habiliter*] by a law, the President of the Republic to take the measures that are normally of the domain of the law, for a given time period and [with] the objectives that it specifies. Within the limits of time and of competence established by the enabling law [*lois d'habilitation*], the President of the Republic takes the Ordinances that enter into force on their publication, but become lapsed if a bill of a law of ratification is not presented before the National Assembly before the date established by the enabling law.

After this last date, they can only be modified by the law. They conserve nevertheless regulatory value until their ratification.

They may be amended at the moment of [*lors*] the vote on the law of ratification.

#### Article 83

The laws qualified as organic by this Constitution are voted and modified by a majority of two-thirds of the members composing the National Assembly.

They may not be promulgated if the Constitutional Court, obligatorily referred to [the matter] by the President of the Republic has not declared them conforming to the constitution.

The National Assembly may not enable the President of the Republic to take by way [*voie*] of Ordinance the measures arising within the organic law.

#### Article 84

The initiative of the laws belongs concurrently to the President of the Republic and to the Deputies of the National Assembly.

#### Article 85

The President of the Republic and the Deputies of the National Assembly have the right of amendment. The amendments of the President of the Republic are presented by the Prime Minister or a Minister.

The proposals and amendments formulated by the Deputies are only receivable if they arise within the domain of the law or if they enter within the competences delegated to the President of the Republic in application Article 82 during the duration of this delegation. They are not receivable when their adoption would have as consequence, either a diminution of the public resources, or the creation or the aggravation of a public charge, unless compensatory receipts would be specified.

#### Article 86

In the case of disagreement between the National Assembly and the President of the Republic, represented by a Minister, on the receivability of an amendment, the Constitutional Court decides within a time period of eight days, at the demand of one or the other.

#### Article 87

The National Assembly establishes its agenda. Nevertheless, the President of the Republic may demand the registration [*inscription*], by priority on the agenda, of a bill or of a proposal of law or of a declaration of general policy. This registration is of right.

The duration of the examination of the texts registered [*inscrits*] in the agenda by priority may not exceed half of the duration of the ordinary session.

#### Article 88

The Ministers may be heard at any moment by the National Assembly and by its commissions.

They may be assisted by the collaborators of their choice.

#### Article 89

The Government is required to furnish the National Assembly all the explanations that will be demanded of it concerning its administration [*gestion*] and about its activities.

The means of control of the National Assembly on the governmental action are the written and oral questions with or without debate to which the Prime Minister and the Ministers are required to answer. The answers given are not followed by a vote. They are published in the *Journal Officiel* [Official Gazette]. One sitting [*séance*] per week is reserved, during the course of each ordinary session, for the oral questions without debate.

The National Assembly may designate from within [*en son sein*] commissions of inquiry.

The Internal Regulations of the National Assembly determine the powers [*pouvoirs*] of these commissions.

They are created by the law, which defines for them [*en*] the composition, the functioning, the object and specifies the powers.

#### Article 90

The state of siege, as the state of urgency, is decreed by the President of the Republic, after the opinion [*après avis*] of the President of the National Assembly and of the President of the Constitutional Court. These opinions are published in the *Journal Officiel* [Official Gazette].

The President of the Republic may take, by ordinance, all measures necessary to the defense of the integrity of the territory and to the restoration or to the maintenance of the public order.

The National Assembly meets then of plain right, if it is not in session. It may not be dissolved.

The decree proclaiming the state of siege or the state of urgency ceases to be in force after twelve days, unless the National Assembly, referred to [the matter] by the President of the Republic, authorizes its [*en*] prorogation for a time period that it establishes. The Ordinances taken in application of the state of siege and of the state of urgency cease to be in force at the end of them.

#### Article 91

The state of war is declared by the President of the Republic, after having been authorized by the National Assembly by a majority of two-thirds of its members.

#### Article 92

In the case of persistent disagreement between the President of the Republic and the National Assembly on fundamental issues, the President of the Republic may, after consultation with the President of the National Assembly, pronounce the dissolution of it.

The dissolution may not be pronounced before the third year of the legislature and in the course of one same presidential mandate, more than one time.

New elections take place within the sixty days that follow the dissolution.

If these [elections] return to the National Assembly a majority of Deputies favorable to the position adopted by the former majority on the issue that provoked the dissolution, the President of the Republic must resign.

The National Assembly meets of plain right within the ten days that follow its election.

In the case of disagreement between the President of the Republic and the National Assembly before the third year of the legislature, the Constitutional Court may be referred to [the matter] by the President of the Republic or by the President of the National Assembly or by one-tenth of the Deputies.

The decision of the Constitutional Court imposes itself on the President of the Republic and on the National Assembly.

## **TITLE VI OF THE CONSTITUTIONAL COURT**

### Article 93

The Constitutional Court is the competent jurisdiction in constitutional, [and] electoral matters and in [matters] of the fundamental rights and freedoms. It judges the constitutionality of the laws, [and] of the ordinances as well as the conformity of the international treaties and agreements to the Constitution.

It guarantees the exercise of the fundamental rights of the human person and of the public freedoms.

It sees to the regularity of the national elections and of the referendums of which [dont] it proclaims the definitive results.



It is the regulatory organ of the functioning and of the activities of the legislative and executive Powers and of the other organs of the State.

#### Article 94

The Constitutional Court decides on:

- the constitutionality of the laws before their promulgation;
- the electoral disputes [contentieux] of the national elections;
- the Internal Regulations of the National Assembly, of the Economic and Social Council, of the High Authority of Communication, of the Independent National Electoral Commission, of the National Institution of Human Rights, of the Mediator of the Republic, [and] of the High Council of the Local Collectivities regarding their conformity to the Constitution;
- the conflicts of attributions between the constitutional organs;
- the exception [pleadings] of unconstitutionality raised before the jurisdictions;
- the recourses formed against the acts of the President of the Republic taken in application of Articles 2, 45, 74 and 90, as well as the recourses formed against the Ordinances taken in application of Article 82, under reserve of their ratification.

#### Article 95

The organic laws are obligatorily submitted by the President of the Republic to the Constitutional Court before their promulgation.

The ordinary laws, before their promulgation, may be referred to the Constitutional Court either by the President of the Republic or by the President of the National Assembly or by one-tenth of the Deputies.

#### Article 96

The Constitutional Court decides within the time period of one month according to a procedure whose modalities are established by an organic law.

The recourse suspends the time period of the promulgation of the law. A provision declared unconstitutional becomes null and of no effect and may not be promulgated or applied.

Any pleader [*plaideur*] may raise the exception of unconstitutionality of a law before any jurisdiction.

The jurisdiction referred to [the matter] postpones deciding and remits the exception before the Constitutional Court. In this case, the Constitutional Court decides in the fifteen days of its referral.

The Constitutional Court is the judge of the violations of the fundamental rights and public freedoms committed by the public powers, the agents of the State and the citizens. It can be referred to [the matter] by the National Institution of Human Rights.

The jurisprudence of the Constitutional Court, in this matter, prevails [a primauté] over that of the other jurisdictional orders.

#### Article 97

The international engagements specified in Article 150 are deferred before ratification to the Constitutional Court, either by the President of the Republic, or by the President of the National Assembly or by one Deputy.

The Court verifies, in a time period of thirty days, if these engagements have [comportent] clauses contrary to the Constitution. In the affirmative, the Constitution is modified before the ratification of those [*desdits*] engagements.

In the case of urgency or at the demand of the Government, this time period is reduced to [*ramené*] eight days.

#### Article 98

In all the cases of referral, the Constitutional Court decides in a maximum time period of fifteen days.

Nevertheless, at the demand of the President of the Republic, this time period may be reduced to eight days.

#### Article 99

The Orders of the Constitutional Court are without recourse and impose themselves on the public powers and on all the administrative, military and jurisdictional authorities, as well as on any natural or juridical [morale] person.

#### Article 100

The Constitutional Court includes nine (09) members aged forty-five (45) years at least chosen for their good morality.

It is composed of:

- two (2) notable persons [*personnalités*] recognized for their probity and their wisdom, with [*dont*] one (1) proposed by the Bureau of the National Assembly and one (1) proposed by the President of the Republic;
- three (3) magistrates having at least twenty 20 years of practice, designated by their peers;
- one (1) lawyer having at least twenty 20 years of practice elected by his peers;
- one (1) teacher [*enseignant*] of the Faculty of Law bearing at least a doctorate in public law and having an experience of at least twenty 20 years, elected by his peers;
- two (2) representatives of the National Institution of Human Rights recognized for their long experience.

#### Article 101

The duration of the mandate of the members of the Constitutional Court is nine years non-renewable, under reserve of paragraph 3 of this article.

The President of the Constitutional Court is elected by his peers for a duration of nine-years non-renewable.

The members of the Constitutional Court are renewed by thirds every three (3) years by drawing of lots [*tirage au sort*].

#### Article 102

The members of the Constitutional Court are irremovable during the duration of their mandate.

They may not be prosecuted or arrested without the authorization of the Constitutional Court, except in the case of flagrante delicto. In this case, the President of the Constitutional Court is informed, at the latest within 48 hours.

In the case of crimes or misdemeanors, the members of the Constitutional Court are justiciable by the Supreme Court.

#### Article 103

Before entering into [their] function, the members of the Constitutional Court take an oath in a public solemn audience before the President of the Republic and the President of the National Assembly in these terms:

"I swear to well and faithfully fulfill my functions, to exercise them in all impartiality within the respect for the Constitution and in all independence, to keep the secrecy of the deliberations and of the votes and not to take any public position, not to give any consultation on the issues falling within the competence of the Court. "

#### Article 104

The functions of the members of the Constitutional Court are incompatible with the exercise of any elective mandate, of any public, civil or military employment, of any professional activity as well as of any function of national representation.

#### Article 105

The credits necessary for the functioning of the Constitutional Court are inscribed in the national budget.

#### Article 106

An organic law determines the organization and the functioning of the Constitutional Court, the procedure followed before it, notably the time periods for the referral as well as the conditions of eligibility, the benefits [*avantages*], the immunities, and the disciplinary regime of its members.

### **TITLE VII OF THE JUDICIAL POWER**

#### Article 107

The judiciary power is independent of the executive power and of the legislative power. Justice is rendered exclusively by the Courts and Tribunals.

#### Article 108

The judicial Power is exercised by the Supreme Court, the Court of Accounts, the Courts and Tribunals whose [*dont*] definitive decisions impose themselves on the parties, on the public powers, on all administrative, [and] jurisdictional authorities and on all the authorities of the forces of defense and security.

#### Article 109

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

The presiding Magistrates [Magistrats du siège] are irremovable within the conditions determined by law.

The presiding [and] prosecuting [du parquet] Magistrates, and the Magistrates of the Central Administration of Justice are appointed and assigned [*affectés*] by the President of the Republic, on a proposal of the Minister of Justice, after [the] conforming opinion [*avis conforme*] of the Superior Council of the Magistrature. Any appointment or assignment of [a] Magistrate without the assent of the Council of the Judiciary is null and void.

#### Article 110

An organic law establishes the status, the career and the guarantees of independence of the Magistrates.

#### Article 111

The Superior Council of the Magistrature gives its opinion on all issues concerning the independence of the Magistrature, the career of the Magistrates and the exercise of the right of pardon.

It studies the dossiers of pardon and transmits them, with its substantiated opinion to the President of the Republic.

It decides as a disciplinary council of the Magistrates.

#### Article 112

The Superior Council of the Magistrature presided over by the President of the Republic includes 17 members:

- The Minister of Justice, Vice-President;
- The First President of the Supreme Court;
- The General Procurator before [près] the Supreme Court;
- One First President of the Court of Appeal designated by his peers;
- Two Magistrates of the Supreme Court elected at the General Assembly of that [ladite] Court;
- One General Procurator before [près] the Court of Appeal, appointed by his peers;
- One Magistrate of the Central Administration of the Ministry of Justice, designated by his peers;
- Six Magistrates elected in the General Assembly of the Courts of Appeal;
- One President of a Tribunal of first instance, designated by his peers;
- One Procurator of the Republic, designated by his peers.

When it sits in disciplinary formation, the Superior Council of the Magistrature is presided over by the First President of the Supreme Court.

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

## **SUB-TITLE I OF THE SUPREME COURT**

### Article 113

The Supreme Court is the highest jurisdiction of the State in administrative and judicial matters.

The Supreme Court is judge in first and last resort of the legality of the regulatory texts and of the acts of the executive authorities.

It takes cognizance of the decisions of the Court of Accounts by way of the recourse in cassation.

It takes cognizance, by way of the recourse in cassation or in annulment, of the decisions of the Courts and Tribunals relative to the other administrative disputes.

In all other matters, the Supreme Court decides by way of the recourse in cassation or in annulment on the judgments rendered in last resort by the inferior jurisdictions [*juridictions inférieures*].

#### Article 114

The Supreme Court is consulted by the executive and legislative powers on all the administrative and jurisdictional matters.

An organic law determines the other competences of the Supreme Court, not specified by the Constitution, and the procedure followed before it.

#### Article 115

The quality of member of the Supreme Court is incompatible with any other public or private function, notably elective.

Except in the case of flagrante delicto, the Magistrates of the Supreme Court may not be prosecuted, arrested, detained or judged in penal matters except with the prior authorization of the General Assembly of the Supreme Court. It attributes competence to the jurisdiction that it determines.

The composition of the Supreme Court, the status, the incompatibilities and the guarantees of independence of its members are established by an organic law.

### **SUB-TITLE II OF THE COURT OF ACCOUNTS**

#### Article 116

The Court of Accounts is the jurisdiction of control a posteriori of the public finance. It has at its disposal jurisdictional and consultative attributions.

It decides on the public accounts, those of the territorial and local collectivities, of the public establishments, of the public and parapublic enterprises and of all organs [*organismes*] and institutions benefiting from financial participation [*concoeurs*] of the State.

It takes cognizance equally of the accounts of the electoral campaigns and of all matters that are attributed to it by the law.

The Court of Account is equally given the charge of controlling the declarations of assets as [*telles que*] received by the Constitutional Court.

It elaborates and addresses a report to the President of the Republic and the National Assembly.

An organic law establishes the composition, the organization, the functioning of the Court of Accounts and the disciplinary regime of its members.

## **TITLE VIII OF THE HIGH COURT OF JUSTICE**

### Article 117

The High Court of Justice is composed of one member of the Supreme Court, of one member of the Constitutional Court, of one member of the Court of Accounts and of six Deputies elected by the National Assembly.

Each one of the members of these Courts is elected by his peers.

The President of the High Court of Justice is a Magistrate elected by the members of the High Court of Justice.

The decisions of the High Court of Justice are not susceptible to any recourse, except by pardon [*grâce*] or revision.

### Article 118

The High Court of Justice is competent to judge the acts accomplished in the exercise of or on the occasion of their functions by:

1. The President of the Republic in the case of high treason;
2. The Prime Minister and the other members of the Government for crimes and misdemeanors.



#### Article 119

There is high treason when the President of the Republic has violated his oath, the Orders of the Constitutional Court, is recognized author, co-author or accomplice of grave and characterized violations of human rights, of cession of a part of the national territory, or of acts threatening [*attentatoires*] the maintenance of an environment healthy, durable and favorable to development.

#### Article 120

The impeachment [*mise en accusation*] is demanded by one-tenth of the Deputies. It can only intervene by a vote of the National Assembly by secret ballot by a majority of three-fifths of the members that compose it.

It may decide, when the President of the Republic is impeached, that the President of the National Assembly exercises his substitution [*suppléance*] until the High Court of Justice has rendered its order.

The investigation [*instruction*] and the judgment take place before any other matter [*toutes affaires cessantes*].

The President of the Republic, the Prime Minister and the members of the Government, in the case of impeachment before the High Court of Justice, are suspended from their functions.

In the case of conviction, they are relieved of their functions.

In the case of acquittal, they resume their functions.

#### Article 121

An organic law establishes the rules of functioning and the procedure followed the High Court of Justice.

#### Article 122

The High Court of Justice is bound [*liée*] by the definition of the crimes and misdemeanors as well as by the determination of the penalties as they result from the laws in force at the moment when the acts were committed.

**TITLE IX**  
**OF THE ECONOMICAL AND SOCIAL COUNCIL**

Article 123

The Economic and Social Council gives its opinion [*avis*] on the issues that are brought [*renvoyées*] to it by the President of the Republic or by the National Assembly.

It is competent to examine the bills or the proposals of law as well as the drafts of [a] decree of economic and social character that are submitted to it, excluding the laws of finance.

It is obligatorily consulted on the bills of plan laws and of program laws of economic character.

It may, on its own initiative and in the form of [a] recommendation, draw [*attirer*] the attention of the President of the Republic and of the National Assembly to the reforms of economic and social order that appear [*paraissent*] to it conforming to or contrary to the general interest.

At the demand of the President of the Republic or of the National Assembly, it designates one of its members to present [*expose*] before the Commissions of the National Assembly the opinion of the Council on the bills or the proposals of law that have been submitted to it.

Article 124

An organic law establishes the composition and the functioning of the Economic and Social Council.

**TITLE X**  
**OF THE HIGH AUTHORITY OF COMMUNICATION**

Article 125

The High Authority of Communication has as [it] mission to guarantee and to assure the freedom and the protection of the press as well as of all the means of mass communication within the respect for the law.

It sees to the respect for ethics [*déontologie*] in the matters of information and to the equitable access of the political parties, the associations and the citizens to the official means of information and of communication.

#### Article 126

An organic law establishes the composition, the organization and the functioning of the High Authority of Communication.

### **TITLE XI OF THE MEDIATOR OF THE REPUBLIC**

#### Article 127

The Mediator of the Republic is an intercessory organ, free [*gracieux*] and independent, between the Public Administration and the [persons] administered.

The Mediator of the Republic receives[,] within the conditions established by the law, the claims of the [persons] administered, in their relations with the administrations of the State, the territorial circumscriptions, the local collectivities, the public establishments, as well as any organ [*organisme*] invested with a mission of public service or to which the law attributes such competences.

#### Article 128

In accomplishing its functions, the Mediator of the Republic is not submitted to the directives, or to the control of any [*nulle*] other person or authority.

#### Article 129

The Mediator of the Republic is appointed by the President of the Republic for a mandate of seven (7) year non-renewable, by Decree taken in the Council of Ministers among the high functionaries retired [*retraités*] or not, having at least thirty years of service. He may only be removed from his functions in the case of definitive incapacity or of grave fault [*faute*] declared by the Supreme Court.

#### Article 130

The Mediator of the Republic may not be prosecuted, arrested, detained or judged on the occasion of the opinions that he emits or of the acts that he accomplishes in the exercise of his functions.

Article 131

An organic law determines the modalities for the referral [of matters] to, for the intervention of, [and] for the functioning of the Mediator of the Republic.

**TITLE XII  
OF THE INDEPENDENT NATIONAL  
ELECTORAL COMMISSION**

Article 132

The Independent National Electoral Commission [*Comission électorale nationale Indépendante (CENI)*] is charged with the establishment and the updating [*mise à jour*] of the electoral list [*fichier*], the organization, the procedure [*déroulement*] and the supervision of the voting operations. It proclaims the provisional results.

Article 133

An organic law determines the composition, the organization and the functioning of the Commission.

**TITLE XIII  
OF THE TERRITORIAL ORGANIZATION**

Article 134

The territorial organization of the Republic is constituted by the Territorial Circumscriptions and the Local Collectivities.

The Territorial Circumscriptions are the Prefectures and the Sub-Prefectures.

The Local Collectivities are the Regions, the Urban Communes [*Communes*] and the Rural Communes.

Article 135

The creation of the Territorial Circumscriptions, their reorganization and their functioning arise within the regulatory domain.

The creation of the Local Collectivities and their reorganization arise within the domain of the law.

#### Article 136

The Territorial Circumscriptions are administered by a representative of the State assisted by a deliberating organ.

The Local Collectivities administer themselves freely through elected Councils, under the control of a delegate of the State who has the responsibility [*charge*] for the national interests and of the respect for the laws.

#### Article 137

The law organizes decentralization through the transfer of competences, of resources and of means to the Local Collectivities.

### TITLE XIV OF THE HIGH COUNCIL OF THE LOCAL COLLECTIVITIES

#### Article 138

The High Council of the Local Collectivities, consultative superior organ, has as [its] mission to follow the evolution of the implementation [*mise en œuvre*] of the policy of decentralization, to study and to give a substantiated opinion on all policies of sustainable [*durable*] local economic development and on the regional perspectives.

It can make concrete proposals to the Government on any issue concerning the amelioration of the quality of life of the populations within [*à l'intérieur*] the collectivities, notably the protection of the environment.

#### Article 139

The duration of the mandate of the members of the High Council of the Local Authorities is four (4) years, renewable one sole time.

Article 140

An organic law establishes the number of members of the High Council of the Local Collectivities, their indemnities, the conditions of eligibility, the regime of ineligibilities and of incompatibilities as well as the conditions of their replacement in the case of vacancy.

**TITLE XV**  
**OF THE FORCES OF DEFENSE AND OF SECURITY**

Article 141

The forces of defense and of security are republican. They are at the service of the Nation. They are apolitical and submitted to the civil authority.

No one may divert [*détourner*] them from their proper objectives [*fins*].

Article 142

The Forces of Defense are charged with the defense of the national territory.

The Forces of Security are charged with the civil protection, the public security, the security of persons and of their assets and the maintenance of the public order.

The Forces of Defense and of Security participate in the economic development of the Nation.

Article 143

No one may organize military formations, paramilitary or private militias, or sustain [*entretenir*] an armed group.

Article 144

The law establishes the organization and the functioning of the Forces of Defense and of Security.

Article 145

The State has the obligation to guarantee national service[,] civil or military[,] to the citizens aged eighteen (18) to thirty (30) years.

A law establishes the duration and the modalities of the service.

**TITLE XVI  
OF THE INDEPENDENT NATIONAL  
INSTITUTION OF HUMAN RIGHTS**

Article 146

The Independent National Institution of Human Rights is given the charge of promoting and protecting the human rights.

Article 147

No member of the Government or of the National Assembly, no other natural or juridical [*morale*] person, public or private[,] may impede [*entraver*] the exercise of its activities.

The State must grant it the assistance that [*dont*] it needs for its functioning and or preserving its independence and its effectiveness.

Article 148

An organic law establishes the composition, the organization and the functioning of the institution.

**TITLE XVII  
OF THE INTERNATIONAL TREATIES  
AND AGREEMENTS**

Article 149

The President of the Republic negotiates and ratifies the international engagements.

The peace treaties, the treaties of commerce, the treaties or agreements relative to the international organization, those that engage the finance of the State, those that modify the provisions of a legislative nature, those that are relative to the status [*l'état*] of persons, those that include cession, exchange or adjunction of territory, may only be ratified or approved by a law.

No cession, no exchange, no adjunction of territory may take place without the consent by way [*voie*] of referendum of the concerned populations.

#### Article 150

If the Constitutional Court referred to [the matter] by the President of the Republic or by a Deputy, has declared that an international engagement contains a clause contrary to the Constitution, the authorization to ratify it or to approve it may only intervene after the revision of the Constitution.

A law authorizing the ratification or the approval of an international engagement may not be promulgated and enter into force when it has been declared nonconforming to the Constitution.

#### Article 151

The treaties or agreements regularly approved or ratified have, from their publication, a authority superior to that of the laws, under reserve of reciprocity.

### **TITLE XVIII OF THE REVISION OF THE CONSTITUTION**

#### Article 152

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

To be taken into consideration, the bill or the proposal of revision is adopted by the National Assembly by the simple majority of its members. It does not become definitive until after having been approved by referendum.

Nevertheless, the bill of revision is not presented to referendum when the President of the Republic decides to submit it to the National Assembly alone. In this case, the bill of revision is approved by a majority of two-thirds of the members composing the National Assembly. It is the same for the proposal of revision that would have to obtain the approval of the President of the Republic.

#### Article 153



No procedure of revision may be engaged in [*entreprise*] in the case of occupation of a part or of the totality of the national territory, in the case of state of urgency or of state of siege.

#### Article 154

The republican form of the State, the principle of secularity [*laïcité*], the principle of the uniqueness [*unicité*] of the State, the principle of the separation and of the equilibrium of the powers, the political and syndical pluralism, [and]the number and the duration of the mandates of the President of the Republic[,] may not be made the object of a revision.

### **TITLE XIX OF THE TRANSITORY PROVISIONS**

#### Article 155

While awaiting the establishment [*mise en place*] of the Constitutional Court and of the Court of Accounts, the Supreme Court remains competent for the matters arising within the competence attributed respectively to these jurisdictions.

This establishment will be realized within a time period of six months at the latest counting from the installation of the National Assembly.

The pending matters before the Supreme Court arising within the competence of these jurisdictions will be transmitted as is [*en l'état*], respectively to the Constitutional Court and to the Court of Accounts, from their installation.

The Economic and Social Council, the National Council of Communication and the Independent National Electoral Commission, remain in place until the installation of the corresponding institutions.

#### Article 156

The President of the Republic by interim and the Government of Transition take the measures necessary for the functioning of the public powers, the life [*la vie*] of the Nation, the protection of persons and of assets and the safeguarding of the freedoms until the entering into [his] functions of the elected President of the Republic.

The President of the Republic by interim assuming the transition may not, in any manner [*façon*] and in any form whatsoever, modify the Constitution, the Electoral Code, the law

relative to the Political Parties and the law establishing the regime of the associations and of the press.

#### Article 157

The National Council of Transition will assume all the legislative functions specified by this Constitution until the installation of the National Assembly.

#### Article 158

The necessary laws for the establishment of the institutions and for the functioning of the public powers are adopted by the National Council of Transition and promulgated by the President of the Republic.

#### Article 159

It will be proceed to the legislative elections at the end of [*à l'issue de*] a transitory period which will not exceed six (6) months counting from the adoption of this Constitution.

#### Article 160

The provisions relative to the Constitutional Court, to the Court of Accounts, to the National Institution of Human Rights, to the Mediator of the Republic and to the High Council of the Local Collectivities will enter into force at the date of their installation. This installation will be realized within a time period of six months at the latest counting from the installation of the National Assembly. Nevertheless, the installation of the High Council of the Local Collectivities will be done at the latest three months after the local elections.

#### Article 161

The legislation in force until the installation of the new Institutions remains applicable, except for the intervention of new texts, when they contain nothing contrary to this Constitution.

#### Article 162

This Constitution, adopted by the National Council of Transition with a majority of three-quarters (3/4) of its members, enters into force counting from the date of promulgation by the President of the Republic by Interim and will be recorded [*enregistrée*] and published in the *Journal Officiel de la République*[Official Gazette of the Republic].

**ARTICLE 2**

This decree will take effect counting from the day of its signature [and] will be recorded and published in the *Journal Officiel de la République*.

Conakry, 7 May 2010

Brigade General Sékouba KONATE

President of the Transition, President of the Republic by Interim, Minister of the National Defense