



# **The Constitution Of Niger**

## CONSTITUTION OF NIGER OF JULY 18, 1999

*Promulgated by decree No. 99-320/PCRN of August 9, 1999*

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### PREAMBLE

Resolved to consolidate the experience gathered from the Republic and from the national independence proclaimed respectively on December 18, 1958 and August 3, 1960 as well as from the Sovereign National Conference which has reunited from July 29 to November 3, 1991 call of the acting forces;

Resolution to build a State based on Law, a united, dignified, peaceful, industrious and prosperous Nation;

Deeply attached to the civilization of values, which are the foundation of our personality;

Concerned by the preservation of our cultural identity;

WE, THE SOVEREIGN NIGERIAN PEOPLE

Proclaim our attachment to the principle of pluralist democracy and to the Rights of Man of 1948, the African Charter of Human and People's Rights of 1981 and such as they are guaranteed by this Constitution;

Reaffirm our attachment to the African Unity and undertake to do all that is possible to perform regional and sub-regional integration;

Assert our will to cooperate in friendship and equality with all people attached to peace, justice and liberty;  
Solemnly adopt this Constitution, Supreme Law of the State to which we swear loyalty, fidelity and respect.

## TITLE I: ON THE STATE AND THE SOVEREIGNTY

### **ARTICLE 1**

The State of Niger is an independent and sovereign Republic.

Any infringement to the republican form of the State is a crime of high treason punished as such by the law.

The capital of the Republic of Niger is Niamey.

The national emblem is a tricolor flag composed of three (3) equal rectangular horizontal bands, which, from top to bottom, are orange, white and green. An orange disc shall be in the center of the middle band.

The national anthem of the Republic is “la Nigérienne.”

The motto of the Republic is “Fraternity, Work, Progress.”

The State Seal, whose diameter shall be forty millimeters, shall be composed of a coat of arms containing a sun bordered on the right by a spear bearing two Tuareg swords radiating upward from its bottom, and at the left by three stalks of grain, one being upright and two radiating from its bottom, accompanied at its point by the head of a zebu, all in gold. The following inscription shall be in relief:

At the top: “Republic of Niger”

At the bottom: “Fraternity, Work, Progress.”

The armors of the Republic are composed of a sinople coat of arms with a blazing sun of gold, bordered at the right by a spear bearing two Tuareg swords radiating upward from its bottom, and at the left by three stalks of grain, one being upright and two radiating from its bottom, accompanied at its point by the head of a zebu, all in gold.

The coat of arms lies against a trophy of four flags of the Republic of Niger.

The inscription “Republic of Niger” is placed under.

### **ARTICLE 2**

The symbols of the Republic, as defined by article 1, shall be used only by public authorities.

Every illegal use for private purpose, every desecration of those symbols shall be punished by law.

### **ARTICLE 3**

All the communities composing the Nigerian Nation shall benefit from the liberty of using their language while respecting those of others.

These languages shall have, all equally, the status of national languages.

The law shall set the terms of the advancement and the development of these languages.

The official language shall be French.

### **ARTICLE 4**

The Republic of Niger is one and indivisible, democratic and social.

Its fundamental principles are:

the government of the people, by the people and for the people;

the separation of the State and of religion.

### **ARTICLE 5**

National sovereignty belongs to the people.

No fraction of the people or any individual may exercise national sovereignty by itself or himself. In the exercise of the State’s power, personal power, regionalism, ethnocentrism, clan spirit, nepotism, feudal spirit, illegal enriching, favoritism, corruption and traffic of influence shall be banished or prosecuted.

### **ARTICLE 6**

The people exercise their sovereignty through elected representatives and through referendum. The conditions of use of the referendum shall be determined by law.

A **Commission Électorale Nationale Indépendante** (CENI) shall be in charge of the organization, the proceeding and the supervision of the voting process. This Committee shall announce the provisional results of the voting process.

A law determines the modalities of the organization and the functioning of this Committee. The Constitutional Court

shall supervise the regularity of the voting process and shall announce the final results of the process.

**ARTICLE 7**

The suffrage is direct or indirect. It is universal, free, equal and secret.

Voters shall be, in the conditions determined by the law, the Nigerians of either gender, of at least eighteen (18) years of age on the voting day or emancipated minors, with full benefit of their civil and political rights.

**ARTICLE 8**

The Republic of Niger is a State of Law (*État de droit*).

The Republic shall assure to all the equality before the law without distinction of sex, of social, ethnic or religious origin.

The Republic shall respect and protect all faiths. No religion, no belief shall assume the political power nor interfere in the affairs of the State.

All particularistic propaganda of regional, racial or ethnic character, all manifestation of racial, ethnic, political or religious discrimination, shall be punished by law.

Foreigners shall benefit, in the territory of the Republic, of the same rights and freedoms as the Nigerian citizens in the conditions determined by law.

**ARTICLE 9**

In the framework of the freedom of association recognized and guaranteed by this Constitution, political parties, groups of political parties, unions and other associations shall develop and exercise their activities freely under the condition of respecting the principles of national sovereignty, of democracy and the laws of the Republic.

The Parties and groups of political parties participate in the expression of the votes. The same prerogatives shall be recognized to every Nigerian citizen with full benefit of his civil and political rights and who fulfills the conditions of eligibility provided by the law.

The Parties with ethnic, regionalist and religious characters shall be prohibited. No party shall be created for the purpose of promoting an ethnic entity, a region or a religion, susceptible to prosecution.

## **TITLE II: ON RIGHTS AND DUTIES OF THE HUMAN PERSON**

**ARTICLE 10**

The human person is sacred. The State shall have the absolute obligation to respect and protect it. The State shall guarantee the full blossoming of the human being.

**ARTICLE 11**

Everyone shall have the right to life, to health, to security, to physical and mental integrity, to education and to schooling in the conditions defined by law.

**ARTICLE 12**

No one shall be subjected to torture, to slavery, nor to cruel, inhuman or degrading assaults or treatments.

**ARTICLE 13**

No one is required to perform a manifestly illegal order.

The Law determines a manifestly illegal order.

Any individual, any agent of the State, who is found guilty of committing acts of torture, inhuman or degrading assaults or treatments in the exercise or at the occasion of the exercise of his functions, either on his own initiative, or under command, shall be punished in conformity to the law.

**ARTICLE 14**

Each person shall have a right to the free development of his personality in its material, intellectual and spiritual, cultural and religious dimensions as long as he does not violate the right of others, does not infringe on constitutional order, legal order or morality.

**ARTICLE 15**

No one shall not be arrested or charged except in pursuance of a law enacted previously to the facts complained.

No citizen may be forced into exile or made an object of deportation.

The forced exile or deportation of a citizen shall be considered a crime against the Nation and punished in conformity to the law.

**ARTICLE 16**

The laws and regulations shall have a retroactive effect only with regards to the rights and benefits that they can confer to citizens.

**ARTICLE 17**

Any person accused of an offence shall be presumed innocent until his culpability has been legally established during the course of a public trial during which all the guarantees required for his free defense shall have been provided.

No one shall be condemned for his actions or omissions if, at the time the actions or omissions were committed, they did not constitute an infraction according to the national law. Similarly, it shall not be possible to punish somebody more than the punishment that was applicable on the day the offence was committed.

**ARTICLE 18**

Marriage and family constitute the natural and moral foundation of the human community. Marriage and family are under State protection.

The State and the public institutions shall bear the duty of looking after the physical, mental and moral health of the family, particularly of the mother and child.

**ARTICLE 19**

The parents have the right and the duty of raising and educating their children. They are supported in this task by the State and the public institutions.

Youth is protected by the State and the public institutions against exploitation and abandonment.

The State shall look after the aged.

The State watches over the equality of opportunities of disabled people with the view of their advancement and/or their social rehabilitation. Moreover, the State shall secure the material and intellectual blossoming of the youth. The State shall secure the well-being of the people.

**ARTICLE 20**

The domicile is inviolable. A house search, arrest and interrogation shall be ordered only according to the forms and conditions provided by the law.

**ARTICLE 21**

Each person shall have the right to own property. No one may be deprived of his property except in case of public necessity under reserve of a just and prior indemnity.

**ARTICLE 22**

The secrecy of correspondence and communication is guaranteed in the conditions defined by the law.

**ARTICLE 23**

Each person has the right to freedom of thought, of opinion, of expression, of conscience, of religion and of cult.

The State guarantees the free exercise of the cult and the expression of beliefs.

These rights are exercised in the respect of public order, of social peace and of national unity.

**ARTICLE 24**

The State recognizes and guarantees the freedom of movement, the freedom of association of a procession, of manifestation in the conditions defined by the law.

**ARTICLE 25**

The State recognizes to all citizens the right to work and shall strive to create the conditions enabling the use of such right and which guarantee to workers the fair retribution of their services or their production.

**ARTICLE 26**

The State recognizes and guarantees the union right and the right to strike, these rights are exercised in the conditions provided by the laws and regulations.

**ARTICLE 27**

Each person has the right to a healthy environment. The State watches over the protection of the environment.

Everyone is obligated to the preservation and amelioration of the environment where he/she lives.

The stocking, handling and evacuation of toxic or polluted waste from factories or other industrial or “artisanal” units settled in the national territory shall be regulated by the law.

The transit, importation, stocking, burying, pouring in the national territory of foreign toxic or polluted waste as well as any agreement concerning such matters shall constitute a crime against the Nation punished by the law.

**ARTICLE 28**

The defense of the Nation and of the integrity of the territory of the Republic is the sacred duty of every citizen of Niger. The military service is obligatory. The conditions of its fulfillment are determined by the law.

**ARTICLE 29**

Every citizen of Niger, civilian or military, has the sacred duty to respect, in all circumstances, the Constitution and the judicial order of the Republic.

**ARTICLE 30**

Every citizen shall have the duty to work for the common good, to fulfilling all his civil and professional obligations and to pay the fiscal contributions.

**ARTICLE 31**

Public property is sacred and inviolable. Each person shall respect it scrupulously and protect it. Any act of sabotage, of vandalism, of corruption, of misuse, of embezzlement, of illicit enrichment shall be repressed (*réprimé*) by the law.

**ARTICLE 32**

The State shall protect, abroad, the legitimate rights and interests of the citizens of Niger.

**ARTICLE 33**

The State has the duty to assure the translation in national languages, the spreading and the teaching of the Constitution as well as the Rights of the Person and the Fundamental Liberties.

A National Commission shall supervise the promotion and the effectivity of the above declared rights and liberties, if necessary, in accordance with the international agreements to which Niger is a signatory.

A law shall determine the organization and the functioning of this Commission.

**ARTICLE 34**

All these rights and liberties shall be exercised with respect to the enacted laws and regulations.

### **TITLE III: ON THE EXECUTIVE POWER**

**ARTICLE 35**

The President of the Republic is the Head of the State. The President embodies the national unity.

The President of the Republic shall be above political parties.

He shall be the guarantor of national independence, national unity, territorial integrity, observance of the Constitution, international treaties and agreements. He shall ensure the regular functioning of the public powers and the continuity of the State.

#### **ARTICLE 36**

The President of the Republic is elected for five (5) years by universal, free, direct, equal and secret suffrage. The President shall be re-eligible only once.

Any Nigerian, woman or man, of Niger national origin, of at least forty (40) years of age, in possession of civil and political rights, is eligible to the Presidency of the Republic of Niger.

The law determines the conditions of eligibility, of candidate presentation, of the voting process, of counting and of the announcement of results.

The Constitutional Court shall control the regularity of these operations and announce the definitive results of the vote.

#### **ARTICLE 37**

The election of the President of the Republic shall take place by majority vote with two ballots.

The convocations of the voters shall be done by decree taken by the Council of Ministers.

The first ballot of the vote for the election of the President of the Republic shall take place at least thirty (30) days and at the latest forty (40) days before the expiration date of the mandate of the President in office.

The candidate having obtained the absolute majority of the votes cast during the first ballot shall be declared elected.

If such a majority is not obtained on the first ballot, a second ballot shall take place at the latest twenty-one (21) days after the first ballot. Only the two (2) candidates who received the greatest number of votes in the first ballot may stand in the second ballot.

In case of death, of withdrawal, or of incapacitation of either one of the two candidates, the following candidates shall be presented in the order of their result on the first ballot.

In case of death of the two (2) candidates, the electoral process of the first ballot shall be repeated in full.

At the end of the second ballot, shall be declared elected the candidate having obtained the highest number of votes.

#### **ARTICLE 38**

The mandate of the new President of the Republic shall take effect on the expiration date of his predecessor's mandate.

#### **ARTICLE 39**

Before taking up his duty, the President of the Republic shall swear an oath on the Holy Book of his faith before the Constitutional Court, in presence of the members of the National Assembly, in the following terms:

***“Before God and before the people of Niger, I (nous)..... President of the Republic elected in conformity with the laws, swear solemnly on the Holy Book:***

***to respect and enforce the Constitution that the people have freely given itself;***

***to loyally fulfill the highest functions which I have been entrusted with;***

***to never betray or misrepresent the people's aspirations; to respect and defend the republican form of the State;***

***to preserve the territorial integrity and the unity of the Nation;***

***to respect and defend the rights and liberties of the citizens;***

***to never take nor support any degrading measure for human dignity;***

***to secure the neutrality of the administration and the observance of the principles of equity and of continuity;***

***to relentlessly work for the people's happiness;***

***not to spare any effort in the pursuit of the African unity;***

***to act at all times as a faithful and loyal servant of the people.***

***In case of perjury, I (nous) shall submit to the sentence of the law.”***

The oath shall be received by the President of the Constitutional Court.

The Prime Minister shall swear, before the National Assembly, the following oath on the Holy Book of his faith:

***“Before God and before the representatives of the people, I (nous).....Prime Minister, Chief of the Government, swear solemnly on the Holy Book:***

***to loyally fulfill the highest functions which I (nous) have been entrusted with; to never betray or misrepresent the people’s aspirations;***

***to respect and defend the republican form of the State;***

***to respect and defend the rights and liberties of the citizens;***

***to never take nor support any degrading (avilissante) measure for human dignity;***

***to watch over the neutrality of the administration and the observance of the principles of equity and of continuity;***

***to relentlessly work for the people’s happiness;***

***to act at all times as a faithful and loyal servant of the people.***

***In case of perjury, I (nous) shall submit to the sentence of the law.”***

#### **ARTICLE 40**

After the ceremony of investiture and within a period of forty-eight (48) hours, the President of the Constitutional Court shall publicly receive the written sworn statement of the property of the President of the Republic.

This declaration shall be updated annually and upon the termination of functions. The initial declaration and the updates shall be published in the **Journal Officiel** and by press. The copy of the declaration of the President of the Republic shall be communicated to the fiscal services.

The differences between the initial declaration and the annual updates shall be duly justified. The Constitutional Court shall have full assessment powers in this matter.

The provisions of this article shall extend to the Prime Minister and the members of the Government.

#### **ARTICLE 41**

During his tenure, the President of the Republic may not by himself nor through somebody else buy or take lease on anything that belongs to the State or its dismemberment.

The President may not take part by himself nor through somebody else, in the public and private contracts of the State and its dismemberment.

The provisions of this article shall extend to the members of the Government and to the President of the National Assembly.

#### **ARTICLE 42**

In case of vacancy of the Presidency of the Republic caused by death, resignation or absolute incapacity, the duties of the President of the Republic shall be temporarily exercised by the President of the National Assembly and, if the later is in turn incapacitated, by the Vice-Presidents of the National Assembly by order of precedence.

It is considered an absolute incapacity if the physical or mental impediment of the President of the Republic renders him inept to exercise the responsibilities of his function.

It shall also be considered an absolute incapacity if the refusal of the President of the Republic to obey a decision (**arrêt**) by the Constitutional Court establishing a violation by the President of the provisions of this Constitution.

The absolute incapacity shall be ascertained by the Constitutional Court, seized by the National Assembly, with a



decision taken by a two-thirds (2/3) majority of its members.

In case of death, the vacancy shall be ascertained by the Constitutional Court seized by the Prime Minister of a member of the Government.

In case of resignation, the vacancy shall be ascertained by the Constitutional Court seized by the resigning President of the Republic.

New presidential elections shall take place at least forty-five (45) days and no more than ninety (90) days after the beginning of the vacancy.

When the President of the National Assembly is in charge of the interim of the President of the Republic in the conditions stated in the above paragraphs, he may not, except in case of resignation or renunciation of the interim, stand as candidate in the presidential elections. He shall exercise the duties vested in the President of the Republic with the exception of the duties provided in article 49, 50 and 53.

In case of resignation of the President of the National Assembly or renunciation of the interim, the interim of the President of the Republic shall be performed by the Vice-Presidents of the National Assembly by order of precedence.

In case of an impeachment of the President of the Republic before the High Court of Justice, his interim shall be performed by the President of the Constitutional Court who exercises all the duties of the President of the Republic, with the exception of the duties mentioned in paragraph 8 of this article. He may not stand as candidate in the presidential elections.

#### **ARTICLE 43**

In case of absence from the territory, sickness or leave of the President of the Republic, his interim shall be performed by the Prime Minister in the limit of the powers delegated to him by the President.

#### **ARTICLE 44**

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

During the duration of his mandate, the President of the Republic may not be President or member of the government body of a political party or of any national association.

#### **ARTICLE 45**

The President of the Republic shall appoint the Prime Minister from a list of three (3) people proposed by the majority. The majority shall be composed of a party or of a coalition of parties detaining the majority in the National Assembly. On the proposal of the Prime Minister, the President shall appoint other members of the Government and terminate their appointments.

The President of the Republic shall put an end to the functions of the Prime Minister upon presentation by the Prime Minister of the Government's resignation.

#### **ARTICLE 46**

The President of the Republic shall convoke and lead the Council of Ministers. The Prime Minister shall take his place the conditions set by this Constitution.

The agenda of the Council shall be set by common agreement between the President of the Republic and the Prime Minister.

#### **ARTICLE 47**

The President of the Republic shall promulgate the laws within fifteen (15) days, following the transmission that is done to him by the President of the National Assembly.

This time limit shall be reduced to five (5) days in case of urgency declared by the National Assembly.

The President of the Republic may, before the expiry of these time limits, address a request to the National Assembly for a second deliberation of the law of some of its articles. This deliberation may not be rejected.

If after a second reading, the National Assembly votes the text at the absolute majority of its members, the law shall be promulgated of full right and published in accordance to the procedure of urgency.

#### **ARTICLE 48**

The President of the Republic may, after consultation of the Prime Minister and of the President of the National Assembly, pronounce the dissolution of the National Assembly.

A new Assembly shall be elected at least forty-five (45) days and not more than ninety (90) days after such dissolution.

No further dissolution shall take place within twenty-four (24) months following this election.

**ARTICLE 49**

The President of the Republic may, after advice of the National Assembly and of the President of the Constitutional Court, submit to referendum all texts that appear to him as requiring the direct consultation of the people with the exception of revisions of this Constitution which remain subject to the procedure provided in Title XII.

When the bill is adopted by referendum, the President shall promulgate it within the periods of time mentioned in paragraphs 1 and 2 of article 47.

**ARTICLE 50**

The President of the Republic shall accredit the ambassadors and envoys extraordinary to foreign powers. Foreign ambassadors and envoys extraordinary shall be accredited to the President.

**ARTICLE 51**

The President of the Republic is the Chief of the administration. He shall be in charge of securing the administration's neutrality in the conditions determined by the law.

**ARTICLE 52**

The President of the Republic is the Supreme Chief of the Armed Forces.

He shall be assisted by the Superior Council of National Defense, which he presides. On the proposal of the Minister of National Defense and after opinion of the Superior Council of National Defense, he shall appoint military functions.

The law shall determine the composition, the duties and the rules of the functioning of the Superior Council of National Defense.

**ARTICLE 53**

When the institutions of the Republic, the independence of the Nation, the integrity of the national territory or the fulfillment of its international commitments are under serious and immediate threat and when the proper functioning of the constitutional public authorities is interrupted, the President of the Republic shall take the exceptional measures required by these circumstances after formally consulting the Prime Minister, the President of the National Assembly, the President of the Constitutional Court and the President of the Supreme Court.

He shall inform the Nation of these measures in a message. The National Assembly shall convene as of right if it is not in session. It shall not be dissolved during the exercise of exceptional powers. These measures must stem from the desire to provide the constitutional public authorities, in the shortest possible time, with the means to carry out their duties.

The National Assembly decides, through a decision of the absolute majority of its members, the duration of the exercise of exceptional powers and puts an end to it in case of abusive use.

**ARTICLE 54**

The President of the Republic, after deliberation of the Council of Ministers, shall announce the State of urgency in the conditions determined by the law.

**ARTICLE 55**

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

**ARTICLE 56**

When the proper functioning of the public powers and the continuity of the State are under serious threat, the Council of the Republic shall meet under the presidency of the President of the Republic.

The Council of the Republic shall be constituted by:

The President of the Republic;

The President of the National Assembly;

The Prime Minister;

The President of the Supreme Court;

The President of the Constitutional Court;

The President of the High Court of Justice;

The President of the Economic, Social and Cultural Council;

The President of the Superior Council of Communication;

The President of the National Committee on Human Rights and the Fundamental Liberties;

The President of the Association of Traditional Chiefs.

The law shall determine the duties and the functioning of the Council of the Republic.

**ARTICLE 57**

The President of the Republic shall sign the ordinances and decrees deliberated upon in the Council of Ministers.

The President shall make appointments to the civil and military posts of the State. A law shall determine the functions which shall be vested in the President by decree taken by the Council of Ministers.

**ARTICLE 58**

The law sets the advantages granted to the President of the Republic and organizes the conditions to obtain the pension for former President of the Republic and the Chiefs of the State.

**ARTICLE 59**

The Prime Minister is the Chief of the Government. He shall govern, animate and coordinate the governmental action. He shall insure the execution of laws.

He may delegate certain of his powers to ministers.

In pursuance of an express delegation and for a determined agenda, he shall take the place of the President of the Republic for the Presidency of a Council of Ministers.

**ARTICLE 60**

The acts of the Prime Minister shall be countersigned, where required, by the ministers in charge for their execution.

**ARTICLE 61**

The Government shall determine and conduct the policy of the Nation. It shall have at its disposal the civil service and the police forces. It may dispose of the Armed Forces in the conditions determined by the law.

It shall be responsible before the National Assembly in accordance with the terms and procedures set out in articles 88 and 89.

**ARTICLE 62**

Acts of the President of the Republic, other than those provided for under paragraph 1 of article 45, in article 49, 50, 53, 74, shall be countersigned by the Prime Minister and, where required, by the responsible ministers.

**ARTICLE 63**

Immediately upon their taking up of duty, the Prime Minister and ministers shall deliver to the President of the Constitutional Court the written sworn statement of their properties.

This declaration shall be updated annually and upon the termination of their functions.

The initial declaration and the updates shall be published in the *Journal Officiel* and by press.

The provisions of the article 41 shall be applicable to the members of the Government.

The law shall determine other public agents, which shall be subject to the obligation of declaration of property as well as the modes of this declaration.

**ARTICLE 64**

The functions of a member of the Government shall be incompatible with the exercise of any parliamentary mandate, of any function of professional representation at the national or local level, of any public work and of any professional activity.

**ARTICLE 65**

In case of cohabitation, national defense and foreign affairs shall be shared domain between the President of the Republic and the Government.

The minister in charge of National Defense and of Foreign Affairs shall be designated by common agreement between the President of the Republic and the Prime Minister.

## TITLE IV: ON THE LEGISLATIVE POWER

### **ARTICLE 66**

The legislative power is exercised by a single chamber called National Assembly the members of which shall have the title of deputy.

### **ARTICLE 67**

The Deputies shall be elected by universal, free, direct, equal and secret suffrage.

The duration of the legislature is five (5) years. The general elections for the renewal of the Assembly takes place at least ten (10) days and no more than twenty (20) days before the end of the current legislature.

The law sets the number of the members of the National Assembly, their indemnity, the conditions of eligibility, the regime of ineligibility and incompatibility, the modalities of the vote, as well as the conditions in which new elections shall be organized in case of vacancy in the seats of deputies.

### **ARTICLE 68**

The Constitutional Court shall rule on the eligibility of the candidates.

It also rules on the validity of the election of the deputies.

### **ARTICLE 69**

Each deputy shall be the representative of the Nation.

All imperative mandates are void.

The right to vote of the deputies is personal. Nevertheless, the delegation of vote is permitted when a deputy is absent for cause of sickness, for the execution of a mandate or a mission entrusted to him by the Assembly or the Government, for performance of his military obligations. No one may receive more than one proxy for a vote.

During the legislature, the deputies shall not be able to resign from the parliamentary groups in which they are registered either on an individual basis, or on the basis of their political parties.

Any deputy who resigns or who is excluded from his political party during the legislature shall be replaced in the National Assembly by his substitute (*suppléant*).

### **ARTICLE 70**

The members of the National Assembly enjoy parliamentary immunity.

No deputy may be prosecuted, searched, arrested, detained or judged on the basis of the opinions or the votes expressed by him in the exercise of his functions.

Except in case of flagrant offence, no deputy can be prosecuted or arrested, during the period of the sessions, in matters of misdemeanors or serious crimes except with the authorization of the National Assembly.

A deputy may be arrested out of session only with the authorization of the Bureau of the National Assembly, except in case of flagrant offence, of authorized prosecutions or of final condemnations.

### **ARTICLE 71**

The National Assembly is directed by a President assisted by a Bureau. The President and the other members of the Bureau are elected in the conditions specified by the internal regulations.

The composition shall reflect the configuration of the National Assembly.

The President is elected for the duration of the legislature and the other members of the Bureau are elected every year.

When he is in charge of the interim of the President of the Republic in the conditions provided in the article 42 of this Constitution, the President of the National Assembly is replaced in his functions in accordance with the internal regulations of the National Assembly.

In case of vacancy of the presidency of the National Assembly due to death, resignation or other cause, the Assembly shall elect a new President within fifteen (15) days following the vacancy if it is in session; where required it shall meet as of right in the conditions set by the internal regulations.

### **ARTICLE 72**

The National Assembly votes the law and gives its consent to taxes. It controls the conduct of the government.

**ARTICLE 73**

Each year, the National Assembly meets as of right in two ordinary sessions on convocation of its President. The first session opens the first week of the month of March and must not exceed ninety (90) days. The second session, called the budgetary session, shall open the first week of the month of October and must not exceed sixty (60) days.

**ARTICLE 74**

The National Assembly is convened in extraordinary session by its President on a determined agenda, at the request of the Prime Minister or of two-fifths (2/5) of the deputies.

Extraordinary sessions, except in cases where they take place as of right, shall be opened and closed by decree of the President of the Republic. The closing shall take effect once the Assembly has dealt with the agenda for which it was convened.

The duration cannot exceed fifteen (15) days.

**ARTICLE 75**

The meetings of the National Assembly are public. A *verbatim* report of the debates is published in the *Journal Officiel*. At the request of the Prime Minister or one-third (1/3) of the deputies, the Assembly may sit *in camera*.

**ARTICLE 76**

The work (*travaux*) of the National Assembly shall be performed in accordance with the internal regulations that it adopts in conformity with the Constitution.

The Rules of Procedure determine in particular:

the composition, the rules of the functioning of the Bureau as well as the powers and prerogatives of its President;

The number, the mode of designation, the composition, the role and the competence of its commissions as well as those that are special and temporary;

The creation of commissions of parliamentary inquiry in the framework of the control of government's action;

The organization of the administrative services managed by a Secretary General placed under the authority of the President of the National Assembly;

The disciplinary code of the deputies during the meetings of the Assembly;

The different modes of ballot, with the exclusion of those provided expressly by this Constitution;

the conditions of the exercise of the right of interrogation as well as the applicable regulations in matters of written and oral questions;

The procedure of raising of an issue of the responsibility of the Government.

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**TITLE V: ON THE RELATIONSHIP BETWEEN THE EXECUTIVE AND LEGISLATIVE POWERS**

**ARTICLE 77**

The National Assembly informs the President of the Republic and the Government of the agenda of its sessions, of its meeting meetings, as well as of its commissions.

**ARTICLE 78**

The President of the Republic communicates with the National Assembly either directly or through messages that are read by the President of the National Assembly. Such messages give rise to any debate.

**ARTICLE 79**

The members of the Government have access to the plenary session and to the commissions of the National Assembly. The members of the Government are heard at the request of the Assembly, or upon their own request. The members may be assisted by their collaborators.

#### **ARTICLE 80**

The members of the National Assembly, either individually, or collectively may question the Prime Minister or any member of the Government by means of a petition.

The members of the National Assembly may as well obtain, by means of written or oral questions, all information on the activities or the administrative acts of the Government.

#### **ARTICLE 81**

The law establishes the regulations concerning:

- Citizenship, civic rights and the fundamental guarantees granted to citizens for the exercise of their public liberties;

- The obligations imposed for the purposes of national defense and of public security upon citizens in the respect of their persons and their property;

Nationality;

- The status and the legal capacity of persons, matrimonial regimes, inheritance and gifts;

- The procedure by which customs shall be recognized and harmonized with the fundamental principles of the Constitution;

- The determination of serious crimes and then major offences as well as the penalties applicable to them, criminal procedure, and amnesty;

- The organization of jurisdictions;

- The creation of the new orders of jurisdiction, establishment of new classes of courts and tribunals and the regulations governing the members of the judiciary;

- The base, rates and the methods of the collection of taxes of all kinds; the issuing of currency;

- The electoral system of the President of the Republic, the members of the National Assembly and local Assemblies;

- The creation of categories of public establishments;

- The nationalization of enterprises and transfers of ownership in enterprise from the public sector to the private sector;

- The general status of civil servants;

- The status of the military personnel, of the public security forces and equivalent;

- The status of traditional *chefferie*;

- The general organization of the administration;

- The territorial organization, the creation and modification of administrative districts as well as electoral zones;

- The state of siege and the state of urgency;

- The associative system; the communication;

- The status of the opposition.

#### **ARTICLE 82**

The law determines the fundamental principles of:

- The organization of National Defense;

- The self-government of territorial units, their powers and their resources; teaching and scientific research;

- Health;

- The protection of the family;

- Environmental protection and natural resource conservation; the protection, conservation and organization of space;

- The protection of cultural heritage;

- The regime governing ownership, rights *in rem* and civil and commercial obligations; the labor law, social security, trade-union law and right of strike;

- Transfer and management of the domain of the State; the mutuality and savings;

- The transport, post and telecommunication system; the public accounting system;

- *The prison system; education;*

- The Rural Code; the habitat policy;

- The Code from the mortgage to rent.

#### **ARTICLE 83**

The law of finance of the year shall forecast and authorize for each civil year all of the resources and expenditures of the State.

The so-called rectifying laws of finance may in the course of year modify the provisions of the law of finance of the year.

The law of balance shall ascertain the financial results of each civil year and approve the differences between the results and the projections of the law of the finance of the year.

The law of program shall set the objectives of the economic and social action of the State.

**ARTICLE 84**

Matters other than those that fall within the domain of the law are of a regulatory character. Texts of legislative form passed concerning these matters prior to the entry into force of this Constitution may be amended by decree issued after consultation with the Constitutional Court.

**ARTICLE 85**

A declaration of war and the sending of military troupes abroad shall be authorized by the National Assembly.

**ARTICLE 86**

A state of siege is decreed in the Council of Ministers after consultation with the Bureau of the National Assembly. The National Assembly reconvenes as of right, if it is not in session. The prolongation of a state of siege beyond fifteen (15) days may only be authorized by the National Assembly.

**ARTICLE 87**

In order to carry out its program, the Government may ask the National Assembly for authorization, for a limited period of time, to take measures by ordinance that are normally a matter of law. This authorization takes the form of a law of habilitation. The ordinances are adopted in the Council of Ministers after consultation with the Constitutional Court. They come into force upon their publication but lapse if the bill to ratify them is not laid before the National Assembly before the date set by the law of habilitation. At the end of the period referred to in the first paragraph of this article, the ordinances may be amended only by the law in those areas which are within the domain of the law.

**ARTICLE 88**

The Prime Minister, after deliberation by the Council of Ministers, may make the Government's program or possibly a statement of its general policy an issue of its responsibility before the National Assembly. The National Assembly may raise an issue of the Government's responsibility by passing a motion of censure. Such a motion is not admissible unless it is signed by at least one-tenth (1/10) of the members of the National Assembly. Voting may not take place within forty-eight (48) hours after the motion has been introduced. Only the votes in favor of the motion of censure are counted; the motion of censure is not adopted unless it is voted for by the majority of the members of the Assembly. The Prime Minister may, after deliberation by the Council of Ministers, make the passing of a bill an issue of the Government's responsibility before the National Assembly. In that event, the bill shall be considered adopted unless a motion of censure, introduced within the subsequent twenty-four (24) hours, is carried as provided for in the preceding paragraph.

**ARTICLE 89**

When the National Assembly adopts a motion of censure or when it fails to endorse the program or a statement of general policy of the Government, the Prime Minister must tender the resignation of the Government to the President of the Republic.

**ARTICLE 90**

The Government and the members of the National Assembly shall have the right to initiate statutes.

**ARTICLE 91**

The Government has the legislative initiative concurrently with the Deputies.

**ARTICLE 92**

Bills, projects and amendments which are not matters for law or which violate morality shall not be admissible. The inadmissibility shall be pronounced by the President of the National Assembly. In case of disagreement, the Constitutional Court, at the request of the Prime Minister or of the President of the National Assembly, shall rule within eight (8) days.

**ARTICLE 93**

The bills and amendments introduced by the Deputies shall not be admissible when their adoption would have as a consequence either a diminution of public resources or the creation or the increase of an item of public expenditure, except if they are accompanied by a proposition of increase in earnings or equivalent savings.

**ARTICLE 94**

The discussion of bills of law shall concern the text presented by the competent commission of the National Assembly. At the request of the Government, the commission shall inform the National Assembly of all the points on which there is disagreement with the Government.

**ARTICLE 95**

The National Assembly votes the bill of law of finance in the conditions determined by the law.

**ARTICLE 96**

The National Assembly deals with the bill of law of finance as soon as the opening of the budgetary session, the bill of law of finance shall forecast the earnings necessary to fully cover the expenses.

The National Assembly votes a balanced budget.

If the National Assembly has not pronounced itself within sixty (60) days following the introduction of the bill, the provisions of this bill may be brought into force by ordinance. The Government shall seize, for ratification, the National Assembly convened in extraordinary session, within a period of time of fifteen (15) days.

Should the National Assembly fail to reach a decision on the budget by the end of this ordinary session, the budget is definitively adopted by ordinance.

If the bill of law of finance is not introduced in time for promulgation before the beginning of the fiscal year, the Prime Minister shall ask as a matter of urgency the National Assembly for authorization to continue collecting taxes and start spending on the basis of the budget of the previous year in application of the *provisional twelfths* system.

**ARTICLE 97**

The National Assembly regulates the accounts of the Nation according to the modalities provided by the law of finance. The law of balance needs to be registered before the Bureau of the National Assembly during the budgetary session of the year following that of the execution of the budget in order to be debated during the next parliamentary session and adopted at the latest on December 31 of the second year which follows the execution of the budget.

The National Assembly may request to the Chamber of Accounts and Budgetary Discipline of the Supreme Court to conduct all inquiries and studies concerning the execution of the public earnings and expenses.

## **TITLE VI: ON THE JUDICIAL POWER**

**ARTICLE 98**

The judicial power is independent from the legislative and executive powers. It is exercised by the Constitutional Court, the Supreme Court, the courts and tribunals created in conformity with this Constitution.

**ARTICLE 99**

Justice is rendered in the national territory in the name of the People and in the strict observance of the rule of law as well as of the rights and liberties of each citizen.

The decisions of justice binds everybody, public authorities as well as citizens. They may only be criticized through the procedures and under the forms authorized by law.

**ARTICLE 100**

In the exercise of their functions the judges are independent and only subject to the authority of the law.

The President of the Republic is the guarantor of the independence of the judiciary.

He is assisted by the High Council of the Judiciary.



**ARTICLE 101**

Judges shall be appointed by the President of the Republic on proposition of the Minister of Justice, Keeper of the Seals, after consultation with the High Council of the Judiciary.

Public prosecutors are appointed by the President of the Republic on the proposal of the Minister of Justice, Keeper of the Seals.

Judges are irremovable.

**ARTICLE 102**

The law specifies the composition, organization, attribution and the functioning of the High Council of the Judiciary.

**SECTION I: ON THE CONSTITUTIONAL COURT**

**ARTICLE 103**

The Constitutional Court is the competent jurisdiction in constitutional and electoral matters. It is in charge of ascertaining the constitutionality of the laws, of ordinances as well as the conformity of international treaties and agreements to the Constitution. It interprets the provisions of the Constitution. It controls the conformity, the transparency and the sincerity of the referendum, the presidential, legislative and local elections. It has competence over electoral litigation and proclaims the definitive results of elections.

**ARTICLE 104**

The Constitutional Court consists of seven (7) members of at least of forty (40) years of age.

The Court consists of:

- Two (2) persons having extended professional experiences with one (1) being proposed by the Bureau of the National Assembly and one (1) proposed by the President of the Republic;
- Two (2) magistrates elected by their peers;
- One (1) lawyer elected by his peers;
- One (1) professor from the Faculty of Law holding at least a doctorate in public law elected by his peers;
- A representative of the Associations of Defense of Human Rights recognized for his expertise in public law.

The members of the Constitutional Court are appointed for six (6) years by decree of the President of the Republic. Their mandate is not renewable. One-third of the membership of the Constitutional Court is renewed every two (2) years.

**ARTICLE 105**

The members of the Constitutional Court are irremovable during the duration of their mandate. They cannot be prosecuted or arrested without the authorization of the Constitutional Court, except in case of flagrant offence. In such case, the President of the Constitutional Court shall be seized, at the latest within forty-eight (48) hours.

**ARTICLE 106**

The President of the Constitutional Court is elected by his peers for a renewable duration of three (3) years.

**ARTICLE 107**

Before taking up of their duties, the members of the Constitutional Court swear an oath on the Holy Book of their faith, in a solemn public hearing, before the President of the National Assembly in these wordings:

"I swear to perform my duties, to exercise them in complete impartiality in accordance with the Constitution and in complete independence, to keep the secrecy of deliberations and of the votes and to never take any public position, not to give any consultation on questions pertaining to the competence of the Court."

**ARTICLE 108**

The office of the members of the Constitutional Court is 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.

The credits required for the functioning of the Constitutional Court are prescribed in the general budget.

An institutional law determines the organization and the functioning of the Constitutional Court, the procedure followed before the Court, in particular the periods of time during which the Court may be referred to, as well as the conditions of eligibility, the advantages, the immunities, and the disciplinary code of its members.

**ARTICLE 109**

The Constitutional Court renders decisions on:

- The constitutionality of the laws before their promulgation in the conditions stated in article 112 of this Constitution; •
- The Internal Regulations of the National Assembly before their implementation;
- The conflicts of jurisdiction between the institutions of the State;

It assures the proper conduct of the presidential, legislative and local elections. It examines complaints, has general jurisdiction over litigation concerning presidential, legislative or local elections and declares the results of the vote. It ascertains on the conformity of the referendum and proclaims the results of the referendum.

**ARTICLE 110**

The Constitutional Court also has jurisdiction over matters provided in articles 6, 40, 42, 53, 63, 68, 84 and 92 of the Constitution.

**ARTICLE 111**

The Constitutional Court receives the oath of the President of the Republic.

**ARTICLE 112**

The institutional laws, before their promulgation and the rules of procedure of the National Assembly, before their entry into force, shall be referred to the Constitutional Courts which rules on their conformity with the Constitution.

For the same purpose, the laws may be referred to the Constitutional Court, before their promulgation, by the President of the Republic, the President of the National Assembly, or one-tenth (1/10) of the Deputies.

In the above-mentioned case, the Constitutional Court must rule within a fifteen (15) day period of time. Nevertheless, at the request of the Government, if the matter is urgent this period of time is reduced to five (5) days. In these same cases, reference to the Constitutional Court suspends the time limit for promulgation.

**ARTICLE 113**

Any person who is a party in a lawsuit may invoke the unconstitutionality of a law before any jurisdiction by means of exception. The jurisdiction must stay proceedings until the decision of the Constitutional Court, a decision which must be given within thirty (30) days.

A provision declared unconstitutional on the basis of the paragraph above is null and void as of right.

The Constitutional Court's decision declaring such unconstitutionality is published in the *Journal Officiel* following the urgency of procedure.

**ARTICLE 114**

The Constitutional Court delivers opinions on the interpretation of the Constitution when it is referred to by the President of the Republic, the President of the National Assembly or one-fifth (1/5) of the Deputies.

In no case may this opinion take the form of a decree.

**ARTICLE 115**

The decisions of the Constitutional Court are not susceptible to any appeal. They are binding on public authorities and on all other administrative, civil, military and judicial authorities.

**SECTION II: ON THE SUPREME COURT**

**ARTICLE 116**

The Supreme Court is the highest jurisdiction of the State in administrative, judicial and the public accounts.

The Court comprises three (3) chambers: the Judicial Chamber, the Administrative Chamber and the Account and Budget Chamber.

An organic law determines the composition, the organization, the attributions and the functioning of the Supreme Court.

### **SECTION III: ON THE HIGH COURT OF JUSTICE**

#### **ARTICLE 117**

The High Court of Justice is composed of the deputies elected from among their ranks by the National Assembly after each general renewal.

The High Court of Justice elects its President from among its members.

The law sets the number of the members of the High Court of Justice, the rules of its functioning as well as the procedure to be followed before it.

The High Court of Justice must be established during the course of the second Ordinary Session of the first Legislature.

#### **ARTICLE 118**

The President of the Republic shall be liable for acts performed in the exercise of his duties only in case of high treason. The President is tried by the High Court of Justice. There is high treason if the President of the Republic has breached his oath, is found to have been the initiator, co-initiator or accomplice of serious and characterized violation of human rights, of fraudulent cession of a part of the national territory, of the introduction of toxic waste within the national territory.

When the President of the Republic is found guilty of the crime of high treason, he is deprived of his functions.

Such revocation is declared by the Constitutional Court at the end of the procedure before the High Court of Justice in accordance with the provisions of this Constitution.

The High Court of Justice is competent to try members of the Government by reason of acts qualified as serious crimes or other major offences performed in the exercise or at the occasion of the exercise of their functions.

#### **ARTICLE 119**

The indictment of the President of the Republic is voted by open ballot by a majority of two-thirds (2/3) of the Deputies composing the National Assembly.

The indictment of the members of the Government is voted in the same conditions, by a simple majority.

#### **ARTICLE 120**

The Highest Court of Justice is bound by the definition of crimes and other major offenses and such determination of penalties as are laid down by the laws applicable at the time of the facts concerned by the proceedings.

## **TITLE VII: ON THE ECONOMIC, SOCIAL AND CULTURAL COUNCIL**

#### **ARTICLE 121**

The Economic, Social and Cultural Council assists the President of the Republic and the National Assembly.

The Council gives its opinion on the questions that are submitted to it by the President of the Republic or the National Assembly.

#### **ARTICLE 122**

The Economic, Social and Cultural Council is competent to examine the projects and bills of law concerning economic, social and cultural issues with the exception of the law of finance.

The Council is obligatorily called upon for its opinion on bills of laws of economic and social character.

The Council may be referred to on any problem concerning the economic and social life of the Nation.

The Council may, on its own initiative, assume all studies or polls referring to economic, social and cultural issues. Its reports shall be transmitted to the President of the Republic for all practical purposes.

#### **ARTICLE 123**

An organic law specifies the composition, the organization and the functioning of the Economic, Social and Cultural Council.

The composition of the Council shall take into account in particular the concern of an adequate representation of the regions, of the traditional *chefferie*, of the religious and union associations, of the cooperatives as well as of the civil society.

## TITLE VIII: ON THE SUPERIOR COUNCIL ON COMMUNICATION

### **ARTICLE 124**

The Superior Council on Communication is an administrative authority, independent from the political power.

### **ARTICLE 125**

The Council has the mission to ensure and guarantee the liberty and the independence of the means of audiovisual communication and of the published press in compliance with the law.

The Council shall ensure compliance with the ethical rules (*déontologie*) applicable to the information process as well as the fair and effective access of citizens, associations and political parties to the official means of information and communication in the conditions set by the law.

### **ARTICLE 126**

The composition, the organization, the attributions and the functioning of the Council on Communication are specified by an organic law.

## TITLE IX: ON THE TERRITORIAL UNITS

### **ARTICLE 127**

Territorial administration is based on the principles of decentralization and devolution.

Territorial units are created by an organic law.

The law determines the fundamental principles of the free administration of territorial units, their powers and their resources.

### **ARTICLE 128**

The State shall see to the harmonious development of all territorial units on the basis of national solidarity, of regional potentials and of inter-regional equilibrium.

## TITLE X: ON TREATIES AND INTERNATIONAL AGREEMENTS

### **ARTICLE 129**

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

### **ARTICLE 130**

Defense and peace treaties and agreements relating to international organizations, those which modify the internal laws of the State and those which commit the finances of the State may only be ratified by virtue of a law.

### **ARTICLE 131**

If the Constitutional Court, on a reference (*saisie*) from the President of the Republic, from the President of the National Assembly or from one-tenth (1/10) of the Deputies, has declared that an international commitment contains a clause contrary to the Constitution, authorization to ratify the international agreement in question may take place only after amendment of the Constitution.

### **ARTICLE 132**

The treaties or agreements duly ratified shall, upon publication, prevail over laws, subject with regard to each agreement or treaty, to its application by the other party.

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## TITLE XI: ON THE COOPERATION AND THE ASSOCIATION WITH THE STATES

### ARTICLE 133

The Republic of Niger may conclude with any African State agreements of association or community bringing partial or total abandonment (**abandon**) of sovereignty with the view of realizing the African unity.

The Republic of Niger may conclude agreements of cooperation and of association with other States on the basis of reciprocal and advantageous rights.

It accepts to create with these States intergovernmental organisms of common management, of coordination and of free cooperation.

These organisms may in particular have as objectives:

- the harmonization of the economic, finance and monetary policy;
- the establishment of union endeavored to the economic integration through promotion of production and exchanges;
- the creation of solidarity funds;
- the harmonization of development plan; the harmonization of foreign policy; the cooperation in judicial matters;
- the cooperation in defense matters; the cooperation in health matters;
- the cooperation in cultural, scientific and technical matters;
- the coordination of transportation, communications and telecommunications; the cooperation in matters of struggle against natural disasters;
- the enhancement of natural resources; the environmental preservation;
- the cooperation in the matter of managing hydraulic resources.

## TITLE XII: ON THE AMENDMENT OF THE CONSTITUTION

### ARTICLE 134

The initiative for the revision of the Constitution belongs concurrently to the President of the Republic and the members of the National Assembly.

### ARTICLE 135

In order to be taken into consideration, the project or bill to amend the Constitution must be voted by a majority of three-fourths (3/4) of the members composing the National Assembly.

If the project to amend the Constitution has been approved by a majority of four-fifths (4/5) of the members composing the National Assembly, the amendment is approved. In default, the project or bill to amend the Constitution is submitted to Referendum.

### ARTICLE 136

No procedure for revision can be engaged in, or pursued if it carries a threat to the integrity of the national territory.

The republican form of the State, multipartism, the principle of separation of State and religion and the provisions of articles 36 and 141 of this Constitution cannot be the object of an amendment.

## TITLE XIII: TRANSITORY AND FINAL PROVISIONS

### ARTICLE 137

This Constitution will be adopted by referendum. The Constitution will come into force upon its promulgation by the President of the National Reconciliation Council (**Conseil de Réconciliation nationale**) within eight (8) days following the proclamation of the results of the referendum by the State Court (**Cour d'État**).

### ARTICLE 138

The National Reconciliation Council and the Transitional Government continue to perform their duties until the new authorities take up their official duties.

Awaiting the set up of the Constitutional Court, its attributions shall be exercised by the Constitutional Chamber of the State Court.

The President of the Republic elected at the end of the transitional period shall swear an oath before the State Court.

**ARTICLE 139**

The ordinance No. 99-014 of June 1, 1999 on the organization of Public Powers during the transition period remains in force until the new authorities take up their duties.

**ARTICLE 140**

The legislation currently in force remains applicable except in case of express abrogation, as long as it is not contrary to this Constitution.

The organic laws and other enforcement laws specified in this Constitution must obligatorily be passed within the two first years of the first legislature.

**ARTICLE 141**

An amnesty is granted to the initiators of the *Coup d'états* of January 27, 1996 and April 9, 1999.

A law shall be voted to this effect during the first session of the National Assembly.

**ARTICLE 142**

The Economic, Social and Cultural Council is established according to the means of the State.

**ARTICLE 143**

The provisions required to enable the coming into force of this Constitution shall give rise either to ordinances or to decrees taken in the Council of Ministers.