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Congo's Constitution of 2001

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preamble

The morning after the accession of the Congo to the dignity of a sovereign and independent State, a decisive turning point had been taken, notably by the crystallization of the collective hope in the becoming of the Nation.

The experiences lived, through the different political regimes that have succeeded one another, as well as those of other Peoples, have led the Congolese People to make the choice of pluralist democracy as the base of the values having to orient the development of the country, to stimulate its moral, cultural and material development and to respond to the collective demand for a social better-being.

Also, concerned to work for the enrichment of the universal patrimony common to all the democratic societies around the world and founding ourselves on the socio-cultural values particular to our Country,

We, the Congolese People.

Proclaim our firm willingness to construct a State of law and a fraternal and solidary Nation;

Condemn the coup d'État, the tyrannical exercise of power and the use of political violence, under all its forms, as a means of ascension to power or to its conservation;

Adhere to the universal values of peace, of freedom, of equality, of justice, of tolerance, of probity and to the virtues of dialogue, as cardinal references of the new political culture;

Reaffirm the sacred character of the human life, the right to property and the right to diversity;

Reaffirm, solemnly, our permanent right of inalienable sovereignty concerning all our wealth and our natural resources as fundamental elements of our development;

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

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

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

TITLE I

OF THE STATE AND OF SOVEREIGNTY

Article 1

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

Its capital is Brazzaville

Article 2

The principle of the Republic is: Government of the people, by the people and for the people.

Article 3

The national sovereignty belongs to the people who exercise it by means of universal suffrage, by their elected representatives or by way of referendum.

The exercise of sovereignty may not be the work, of one citizen, or of one fraction of the people.

Article 4

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

The mode of election, the conditions of eligibility, as well as the incompatibilities are established by the law.

Article 5

The national emblem is the tricolor flag, of green, yellow, and red. Of rectangular form, it is composed of two right-angled triangles of green and red color, separated by a yellow band in diagonal, the green being on the side of the pole. The law specifies the dimensions, the tones of the colors and the other details of the flag.

Article 6

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

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

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

The official language is French.

The national vehicular languages are Lingala and Kituba.

TITLE II

OF THE FUNDAMENTAL RIGHTS AND FREEDOMS

Article 7

The human person is sacred and has the right to life. The State has the absolute obligation to respect it and to protect it.

Each citizen has the right to the free development and to the full development of his person within respect for the rights of others, of the public order, of ethics and of morals.

Article 8

All citizens are equal before the law.

Any discrimination founded on origin, social or material situation, racial, ethnic or departmental affiliation, gender, education, language, religion, philosophy or place of residence is prohibited, under reserve for the provisions of Articles 58 and 96.

The woman has the same rights as the man. The law guarantees and assures their promotion and their representativeness in all political, elective and administrative functions.

Article 9

The freedom of the human person is inviolable.

No one may be arbitrarily accused, arrested or detained.

Any accused is presumed innocent until his culpability has been established following a procedure that guarantees him the rights of defense.

Any act of torture, any cruel, inhuman or degrading treatment is prohibited.

Article 10

Any citizen, any agent of the State, is not bound by the duty of obeisance when the order received constitutes a manifest threat to the respect for human rights and public freedoms.

The order of a superior or of any authority may not be invoked, in any case, to justify these practices.

Any individual, any agent of the State, any public authority who would be rendered culpable of acts of torture or of cruel and inhuman treatment, either on his own initiative, or under instructions, is punished according to the law.

Article 11

War crimes, crimes against humanity, and the crime of genocide are punished within the conditions determined by the law. They are imprescriptible.

Any propaganda or any incitement to ethnic hatred, to violence or to civil war constitutes a crime.

Article 12

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

Article 13

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

Article 14

The domicile is inviolable.

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

Article 15

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

Article 16

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

He has the right to freely exit the national territory, if he is not the object of penal prosecution, and to return to it.

Article 17

The right to property and the right of succession are guaranteed. No one may be deprived of their property except for cause of public utility, and subject to a fair and prior indemnification, within the conditions specified by the law.

Article 18

The freedom of belief and the freedom of conscience are inviolable.

The use of religion for political ends is prohibited.

Any manifestation of manipulation and of forced recruitment of the consciences, of constraints of all natures imposed by any religious, philosophical, political and sectarian fanaticism are punished by the law.

Article 19

Any citizen has the right to express and to freely diffuse his opinion by words, in writing, by images or all other mean of communication.

The freedom of information and communication is guaranteed.

Censorship is prohibited.

The access to the sources of information is free.

Every citizen has the right to information and to communication.

The activities relative to these domains are exercised within the respect for the law.

Article 20

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

Article 21

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

Article 22

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

The exercise of this right must not cause prejudice, to the public order, or to others, or to the national unity.

Article 23

The right to education is guaranteed. The equal access to education and to professional training is guaranteed.

The education, dispensed in the public establishments, is gratuitous.

School attendance is obligatory until the age of sixteen years.

The right to create private establishments of education, governed by the law, is guaranteed.

Article 24

The State recognizes, to all citizens, the right to work and must create the conditions which render the enjoyment of this right effective.

Article 25

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

Article 26

No one shall be compelled to forced labor, except in the case of a sentence deprivative of liberty pronounced by a jurisdiction legally established.

No one may be submitted to slavery.

Article 27

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

Article 28

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

Article 29

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

The sequestration, the seizure, the confiscation, the interdiction of all or a part of any publication, of any recording or of other means of information or of communication may not be done except by virtue of a decision of justice.

Article 30

The State is the guarantor of the public health.

The aged persons and the handicapped persons have the right to measures of protection in relation to their physical, moral or other needs, in view of their full development

The right to create private socio-sanitary establishments, regulated by the law, is guaranteed.

Article 31

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

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

Article 32

Marriage and family are under the protection of the law.

All the children, who have they been born within the marriage or outside the marriage, have, concerning their parents, the same rights and duties.

They enjoy the same protection in terms of the law.

Parents have obligations and duties concerning their children, whether they have been born within the marriage or outside the marriage.

The law establishes the juridical conditions of the marriage and of the family.

Article 33

Every child, without discrimination of whatever form that may be, has the right, on the part of his family, of society and of the State, to measures of protection demanded by his condition.

Article 34

The State must protect the children and the adolescents against economical or social exploitation.

Work by children under sixteen years of age is prohibited.

Article 35

Every citizen has the right to a healthy, satisfying and lasting environment and has the duty to defend it.

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

Article 36

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

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

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

Article 37

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

Article 38

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

Article 39

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

Article 40

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

Article 41

Every citizen, who suffers a prejudice by an act of the administration, has the right to act in justice, in the forms determined by the law.

Article 42

Foreigners benefit, on the territory of the Republic of the Congo, from the same rights and freedoms as nationals within the conditions determined by the treaties and the laws, under reserve of reciprocity.

TITLE III

OF THE DUTIES

Article 43

Every citizen has duties toward the family, the society, the State and the other collectivities legally recognized.

Article 44

Each citizen has the duty to respect their fellow men without discrimination, and to maintain with them relations that permit them to promote and to reinforce reciprocal tolerance.

He is required to preserve the national cultural values in a spirit of dialogue and consultation, to contribute to the reinforcement of the national cohesion and solidarity.

Article 45

Every citizen must preserve the peace, the national independence, and the territorial integrity and contribute to the defense of the country.

Treason, espionage for the profit of a foreign power, joining the enemy in times of war, as well as any other form of threat to the security of the State are reprimanded by the law.

Article 46

All citizens have the duty to work for the common good, to fulfill all their civic and professional obligations and to make their tax contributions within the conditions determined by the law.

They have the duty to work to the extent of their capacities and of their possibilities.

Article 47

Public assets are sacred and inalienable. Every citizen must respect them scrupulously and protect them. The law establishes the conditions for the alienation of public assets in the general interest.

Any act of sabotage, of vandalism, of corruption, of illicit enrichment, of racketeering, of diversion or of dilapidation of the public monies, is reprimanded within the conditions specified by the law.

Article 48

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

The non-observance of this obligation causes the forfeiture of the functions within the conditions established by the law.

Article 49

Every citizen, in charge of a public function, or elected to a public function, has the duty to accomplish it with conscience and without discrimination.

Article 50

Every citizen has the duty to conform himself to the Constitution, the laws and the regulations of the Republic and to fulfill his obligations towards the State and the society.

TITLE IV

OF THE POLITICAL PARTIES

Article 51

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

Article 52

The political parties have a national character and should not identify themselves in form, in action or, in whatever manner, to an ethnic group, to a department, to a religion or to a sect.

Article 53

The political parties are recognized in accordance with the Constitution and the law.

To be recognized, they are required notably to adhere to the following fundamental principles:

- the respect, the safeguarding and the consolidation of the national unity;
the protection and the promotion of the fundamental rights of the human person;
the promotion of a State of law, founded on the respect and the defense of democracy, of individual and collective freedoms;
the defense of the integrity of the territory and of the national sovereignty;
the proscription of intolerance, of ethnicism, of recourse to violence in all its forms;
the respect of the secularity of the State;
the satisfaction of the criteria of national representation specified by the law.

The political parties that, in their functioning, do not conform themselves to the principles enunciated above, are subject to dissolution.

Article 54

The State participates in the financing of the political parties.

The law determines the conditions and the modalities of the financing of the political parties.

Article 55

It is prohibited to the political parties to receive any form of participation of a nature that infringes the independence and the national sovereignty.

TITLE V

OF THE EXECUTIVE POWER

Article 56

The President of the Republic is the Head of the State. He incarnates the national unity. He sees to the respect for the Constitution and to the regular functioning of the public institutions. He protects the arts and the letters.

The President of the Republic is the Head of the Executive. He is the Head of the Government. He determines and conducts the policy of the Nation. He disposes of the regulatory power and assures the execution of the laws.

The President of the Republic is the guarantor of the continuity of the State, of the national independence, of the integrity of the territory and of the respect for the international treaties and agreements.

Article 57

The President of the Republic is elected for seven years by universal direct suffrage. He is re-eligible one time.

Article 58

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

- if he is not of Congolese nationality of origin;
if he does not enjoy all of his civil and political rights;
if he is not of a good morality;
if he does not attest to a professional experience of at least fifteen years;
if he is not aged forty years, at least, and seventy years, at most, at the date of the deposit of his candidature;
if he did not reside in an interrupted manner on the territory of the Republic, at the moment of the deposit of his candidature, for at least twenty-four months. The obligation of residence above indicated does not apply to the members of the diplomatic or consular representations, to the persons designated by the State to occupy a position or to accomplish a mission abroad and to the international functionaries;
if he does not enjoy a state of physical and mental well-being duly declared by a college of three sworn doctors, designated by the Constitutional Court.

Article 59

The President of the Republic is elected by an absolute majority of the suffrage expressed.

If this is not obtained in the first round of the ballot, it proceeds, twenty-one days later, to a second round. Only the two candidates who have obtained the greater number of votes in the first round, may present themselves.

The candidate having obtained the greater number of the votes expressed, is declared elected in the second round.

Article 60

The candidates to the presidential election, having obtained at least fifteen percent of the votes expressed, benefit from a protection and the advantages established by the law.

Article 61

The convocation of the electors is made by decree taken in the Council of Ministers.

Article 62

The first round of the ballot of the election of the President of the Republic takes place thirty days at least, and forty days at most, before the expiration of the mandate of the President in office.

Article 63

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

In the case of death or of a definitive incapacity of one of the two most favored candidates in the first round, before the proclamation of the results of the first round, the Constitutional Court declares to proceed again to the whole of the electoral operations; it is the same in the case of death or definitive incapacity of one of the two candidates remaining present in view of the second round.

In the cases specified in paragraphs 1 and 2 above, the Constitutional Court referred to the matter, by the President of the Republic, or by the President of one or the other chamber of Parliament, or by anyone interested, can suspend the time periods specified in Article 62. The ballot must take place within ninety days counting from the date of the decision of the Constitutional Court. If the application of the provisions of this paragraph have the effect of postponing the presidential election, the President of the Republic in office remains in his function until the taking of the oath by his successor.

In the case of withdrawal of one of the two candidates admitted to the second round, the election continues with the candidate remaining in competition.

Article 64

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

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

Article 65

If no objection has been raised in the time period of five days and if the Constitutional Court deems that the election is not tainted with any irregularity of a nature to cause the annulment of the ballot, it proclaims the election of the President of the Republic within the fifteen days following its referral to the matter.

In case of dispute, the Constitutional Court decides within a time of fifteen days counting from its referral to the matter and proclaims the results.

Article 66

In the case of annulment of the election by the Constitutional Court, new elections are organized within the time periods of forty-five to eighty days. In this case, the President of the Republic in office remains in his function until the taking of the oath by the new elected President of the Republic.

Article 67

In the case of death or definitive incapacity of the elected President of the Republic before entering into his function, it proceeds to new elections within the time periods of forty-five to ninety days.

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

Article 68

The mandate of the President of the Republic debuts on the day of his taking of the oath and ends at the expiration of the seventh year following the date of entering into his function.

The taking of the oath of the new President of the Republic intervenes twenty days at the latest after the proclamation of the results of the election by the Constitutional Court.

Article 69

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

"Before the Nation and the Congolese People, sole holder of sovereignty: I (name of the elected), President of the Republic, solemnly swear:

- to respect and to defend the Constitution and the republican form of the State;
to loyally fulfill the high functions that the Nation and the People have entrusted in me;
to guarantee the respect for the fundamental rights of the human person and the public freedoms;
to protect and to respect the public good;
to consecrate the entirety of the natural resources to the development of the Nation;
to guarantee peace and justice to all;
to preserve the national unity and the integrity of the territory, the national sovereignty and independence."

The oath is received by the Constitutional Court in the presence of the National Assembly and of the Supreme Court.

Article 70

In the case of vacancy of the Presidency of the Republic by death, resignation or any other cause of definitive incapacity, the functions of President of the Republic, with the exception of those mentioned in Articles 74, 80, 84, 86 and 185, are provisionally exercised by the President of the Senate.

The vacancy is established and declared by the Constitutional Court, referred to the matter by the President of the National Assembly.

Article 71

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, forty-five days at least, and ninety days at most after the opening of the vacancy.

The President of the Senate, assuring the interim of the President of the Republic, may not be a candidate to the presidential election.

Article 72

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

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

Article 73

During their functions, the President of the Republic and the Ministers cannot, by themselves or by intermediaries, purchase anything or lease anything that belongs to the domain of the State.

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

They receive a compensation of which the amount is determined by regulatory the way

The President of the Republic occupies an official residence.

Article 74

The President of the Republic appoints the Ministers who are only responsible to him. He terminates their functions.

He establishes, by decree, the attributions of each Minister.

He can delegate a part of his powers to a Minister.

Article 75

The functions of Minister are incompatible with the exercise of any parliamentary mandate, of any public employment, civil or military, and of any professional activity with the exception of agricultural, and cultural activities, of local councilor, of teaching and of research.

They are equally incompatible with the status of member of a council of administration or of a committee of direction of a public enterprise.

Article 76

Each Minister is justiciable before the High Court of Justice for the crimes and misdemeanors committed by him in the exercise of his functions.

Article 77

The President of the Republic appoints to the high civil and military functions in the Council of Ministers.

He appoints to the high civil and military offices

The law determines the functions and the offices which he is provided in the Council of Ministers.

He appoints the ambassadors and the extraordinary envoys to foreign powers and international organizations.

The foreign ambassadors and extraordinary envoys are accredited to him.

Article 78

The President of the Republic is the Supreme Chief of the Armies. He presides over the councils and the committees of defense.

Article 79

The President of the Republic is President of the Superior Council of the Magistrature.

Article 80

The President of the Republic exercises the right of pardon.

Article 81

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

The Council of Ministers deliberates on:

- the bills of law;
the bills of ordinances;
the bills of decrees.

Article 82

The acts of the President of the Republic, other than those specified in Articles 74, 84 and 86, are countersigned by the Ministers given the charge of their execution.

Article 83

The President of the Republic has the initiative of the laws, concurrently with the members of the Parliament.

He assures the promulgation of the laws within the twenty days that follow the transmission that is made to him by the Bureau of the National Assembly.

This time period is reduced to five days in the case of urgency declared by the Parliament.

He can, before the expiration of this time period, demand of the Parliament a second deliberation of the law or of certain of its Articles. This second deliberation cannot be refused.

If the Parliament is at the end of its session, this second deliberation takes place, of office, during the following session.

The vote, for this second deliberation, is acquired with the majority of two-thirds of the members composing the National Assembly and the Senate meeting in Congress. If, after this last vote, the President of the Republic refuses to promulgate the law, the Constitutional Court, referred to the matter by the President of the Republic or by the President of one or the other chamber of the Parliament, proceeds to a control of the conformity of the law. If the Constitutional Court declares the law conforming to the Constitution, the President of the Republic promulgates it.

Article 84

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

He informs the Nation by a message.

The Parliament meets of plain right in extraordinary session.

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

Article 85

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

He may, at anytime, address messages to the National Assembly or to the Senate. These messages do not give rise to any debate.

Article 86

The President of the Republic can, after consultation with the Presidents of the two chambers of the Parliament, submit to referendum any bill of law concerning the organization of the public powers, the guaranties of the rights and of the fundamental freedoms, the economic and social action of the State or tending to authorize the ratification of a treaty.

Before submitting the bill to referendum, the President of the Republic obtains the opinion of the Constitutional Court on its conformity with the Constitution.

In case of non-conformity with the Constitution, it cannot proceed to the referendum.

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

When the referendum has concluded with the adoption of the bill, the law is promulgated within the conditions specified in Article 83, paragraph 2.

Article 87

The personal responsibility of the President of the Republic is only engaged in the case of high treason.

The President of the Republic may only be impeached by the Parliament meeting in Congress deciding by vote by secret ballot by a majority of two- thirds of its members.

Article 88

The former Presidents of the Republic, with the exception of those convicted for forfeiture, high treason, economic crimes, crimes of pillage, war crimes, of genocide or for any other crime against humanity, benefit from the advantages and from a protection within the conditions determined by the law.

TITLE VI

OF THE LEGISLATIVE POWER

Article 89

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

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

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

- the interpellation;
the written question;
the oral question;
the current issues;
the hearing in commission;
the parliamentary inquiry.

Article 90

The members of the National Assembly bear the title of Deputy. They are elected by universal direct suffrage. Each Deputy is the representative of the entire Nation and any imperative mandate is null.

Each Deputy is elected with his substitute.

The members of the Senate bear the title of Senator. They are elected by indirect suffrage by the councils of the local collectivities. They represent the territorial collectivities of the Republic. The Senate exercises, in addition to its legislative function, that of moderator and of council of the Nation.

Article 91

The functions of Deputy and Senator give right to the reimbursement of transport expenses and to the payment of the indemnities for which the rate and the conditions of attribution are established by the law.

Article 92

The duration of the mandate of the Deputies is five years.

They are reeligible.

The duration of the mandate of the Senators is six years. The Senate is renewable every three years by half by drawing of lots.

The mandates of Deputy and Senator can be prolonged by the Constitutional Court in the case of exceptionally grave circumstances impeding the normal development of the elections.

The Constitutional Court is referred to the matter by the President of the Republic.

Article 93

The mandates of the Deputies and the Senators commence on the second Tuesday following their election. Each chamber of the Parliament meets of plain right. If this meeting takes place outside the periods specified for the ordinary sessions, an extraordinary session is opened of plain right for a duration of fifteen days.

The mandate of the Deputies ends with the entering into its function of the new Assembly. The elections take place twenty days, at least, and fifty days, at most, before the expiration of the mandate of the Deputies.

Article 94

The law determines:

- the electoral circumscriptions;
the number of seats and their division by circumscriptions;
the mode of the ballot;
the conditions for the organization of new elections in the case of vacancy of a seat, as well as the regime of the ineligibilities;
the statute of the Deputies and of the Senators.

Article 95

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

In the case of incompatibility, the Deputy is replaced by his substitute.

At the end of the incompatibility, the Deputy recovers his seat in the National Assembly.

Article 96

The candidates to the legislative or senatorial elections must:

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

Article 97

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

They can also present themselves as independent candidates.

Article 98

The Deputies and the Senators lose their mandate if they are the object of a condemnation to a penalty of firm imprisonment for voluntary crimes or misdemeanors.

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

In the two preceding cases, it proceeds to partial elections.

Any ineligibility at the time of the elections known later, as well as the incompatibilities and the incapacities specified by the law, causes the loss of the mandate of Deputy or of Senator.

Article 99

The Constitutional Court decides on the receivability of the candidatures and on the validity of the election of the Deputies and of the Senators.

Article 100

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

Article 101

No member of the Parliament may be prosecuted, or investigated, detained or judged for the opinions or votes emitted by him in the exercise of his functions. No Deputy, no Senator may, during the duration of the sessions, be prosecuted or arrested without the authorization of the chamber to which he belongs, except in the case of flagrante delicto, of authorized prosecutions or of definitive condemnation.

No Deputy, no Senator may, outside of the sessions, be prosecuted or arrested without the authorization of the Bureau of the chamber to which he belongs, except in the case of flagrante delicto, of authorized prosecutions or of definitive condemnation.

Article 102

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

The internal regulations of the National Assembly and of the Senate may authorize, exceptionally, the delegation of the vote. In this case, no one may receive the delegation of more than one mandate.

Article 103

The Parliament meets of plain right in three ordinary sessions per year on the convocation of the Presidents of the two chambers.

The first session opens on 2 March, the second on 2 July, the third on 15 October.

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

Each session has a duration of sixty days, at most.

If 2 March, 2 July or 15 October is a holidays, the opening of the session takes place on the first business day that follows.

Article 104

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

Article 105

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

Article 106

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

- a President;
two Vice-Presidents;
two secretaries;
two treasurers.

Article 107

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

The internal regulations of each chamber have the force of law.

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

The President of the Senate opens and closes the ordinary and extraordinary sessions of the Senate.

Article 108

The sittings of the two chambers of the Parliament are public. The complete record of the debates is published in the journal of debates. Nevertheless, the National Assembly or the Senate may sit in closed session at the demand of the President of the Republic, of the President of each chamber or of one-third of its members.

Article 109

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

In the case of necessity, the other members of the Bureau are to be replaced in conformity with the provisions of the interior regulations of each chamber.

Article 110

The Parliament has the legislative initiative and alone votes the law.

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

It has the initiative of the referendums, concurrently with the President of the Republic.

Article 111

The following are of the domain of the law:

- citizenship, the civic rights and the fundamental guarantees granted to the citizens in the exercise of the public freedoms, the constraints imposed, in the interest of the national defense and of the public security on the citizens, on their persons and on their assets;
the nationality, the status and the capacity of persons, the matrimonial regimes, inheritance and gifts;
the determination of crimes, of misdemeanors and of contraventions as well as of the penalties applicable to them, the organization of justice and of the procedure to be followed before the jurisdictions and for the execution of the decisions of justice, the statute of the magistrature, and the juridical regime of the Superior Council of the Magistrature, of the ministerial offices and of the liberal professions;
the base, the rate and the modalities for recovering the taxes of any nature, the loans and the financial engagements of the State;
the regime for the emission of the currency;
the creation of the public establishments;
the regime of the referendum consultations;
the electoral divisions;
amnesty;
the general statute of the public function;

the administrative organization of the territory;
the free administration of local collectivities, their competences and their resources;
the spatial organization of the territory
the right to work, the syndical right and the regimes of social security;
the nationalizations, the denationalizations of enterprises and the transfers of property of enterprises from the public sector to the private sector;
the plan for economic and social development;
the environment and the conservation of the natural resources;
the regime of property, of real rights and of civil and commercial obligations;
the regime of the political parties, of the non-governmental associations and organizations;
the approval of the international treaties and agreements;
the organization of the national defense;
the administration and the alienation of the domain of the State;
insurance, savings and credit;
the regime of transport, of communication and of information;
the penitentiary regime.

The law determines equally the fundamental principles:

- of teaching
of health;
of science and of technology;
of industry;
of culture, of the arts and of sports;
of agriculture, of animal husbandry, of fishing and of the waters and forests.

Article 112

The laws of finance determine the receipts and the expenses of the State. The laws of regulation control the execution of the laws of finance, under reserve of the ulterior audit of the accounts of the Nation by the Court of Accounts and of Budgetary Discipline.

The program laws established the objectives of the economic and social action of the State, of the organization of the production and of the national defense.

Article 113

Matters, other than those that are of the domain of the law, are of the domain of regulation.

TITLE VII

OF THE RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER

Article 114

The President of the Republic cannot dissolve the National Assembly.

The National Assembly cannot dismiss the President of the Republic.

Article 115

The President of each chamber of the Parliament informs the President of the Republic of the agenda of the sessions.

Article 116

The inscription of the bills and of the proposals of law is made in the order of their deposit with the Bureau of each chamber.

However, the bills and the proposals of law, of which urgency is recognized, are examined with priority.

Article 117

The Ministers have access to the sittings of the Parliament. They are heard at the request of a Deputy or of a Senator, of a commission or at their own demand. They may be assisted by experts.

Article 118

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

The bills of law, deliberated in the Council of Ministers after the opinion of the Supreme Court, are deposited with the Bureau of one or the other chamber.

The proposals of law, of which the redaction is ordered by the Parliament, are, before deliberation and vote, communicated for his information to the President of the Republic.

Article 119

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

Article 120

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

In the case of dispute, the Constitutional Court, referred to the matter by the President of the Republic or by the President of the interested chamber, decides within a time period of fifteen days.

Article 121

The discussion of the bills of law focuses on, before the first chamber referred to the matter, the text presented by the President of the Republic.

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

Article 122

The bills and proposals of law are sent to one of the permanent commissions of which the number is determined by the internal regulations of each chamber.

The bills and proposals of law can, at the demand of the President of the Republic or of the chamber referred to the matter, be sent, for examination, to the special commissions designated to this effect.

Article 123

The President of the Republic and the members of Parliament have the right of amendment.

Article 124

Any bill or any proposal of law is examined, successively, by the two chambers with a view to the adoption of an identical text.

When, following a disagreement between the two chambers, a bill or a proposal of law could not be adopted after one reading by each chamber, the President of the Republic has the faculty to provoke the meeting of a mixed paritary commission, given the charge of proposing a text on the provisions remaining in discussion.

The text, elaborated by the mixed paritary commission, can be submitted by the President of the Republic for approval to the two chambers.

No amendment is receivable, except with the agreement of the President of the Republic.

If the mixed paritary commission does not achieve the adoption of a common text, the President of the Republic can, after a new reading by the National Assembly and by the Senate, demand of the National Assembly to definitively decide.

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

Article 125

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

- the bill or the proposal of law is only submitted for deliberation and vote to the first chamber referred to the matter at the expiration of a time period of fifteen days after its deposit; the procedure of Article 124 is applicable. However, lacking an agreement between the two chambers, the text may only be adopted by the National Assembly in its final reading with the absolute majority of its members; the organic laws may not be promulgated until after the declaration by the Constitutional Court of their conformity with the Constitution.

Article 126

The Parliament is referred to the matter of the bill of the law of finance at the latest one week before the opening of the session of October.

The bill of the law of finance specifies the necessary receipts for the complete coverage of the expenses.

Article 127

If the Parliament has not voted the budget at the end of the session of October, the President of the Republic demands an extraordinary session of which the duration cannot exceed fifteen days.

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

If the Parliament has not been referred to the matter of the bill of the law of finance within the time periods specified in Article 126 and the budget has not been voted in the course of this first extraordinary session, a second extraordinary session is convoked at the demand of the President of the Republic.

Article 128

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

The Parliament regulates the accounts of the Nation. It is assisted, to this effect, by the Court of Accounts and of Budgetary Discipline.

Article 129

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

Article 130

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

Article 131

When an imminent peril appears, resulting from grave threats to the public order or in the case of events presenting, by their nature and their gravity, the character of public calamity or of national disaster, the President of the Republic can decree, in the Council of Ministers, the state of urgency on all or part of the national territory.

When an imminent peril appears, resulting from, either a characterized foreign threat, or from an armed insurrection, or from grave acts occurring during the state of emergency, the President of the Republic can decree, in the Council of Ministers, the state of siege.

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

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

Article 132

The President of the Republic can, to execute his program, demand of the Parliament to vote on a law authorizing him to take by ordinance, during a limited time period, the measures that are normally of the domain of the law.

This authorization is granted with the simple majority of the members of the Parliament.

The demand indicates the matters in which the President of the Republic wishes to take the ordinances.

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

When the demand for habilitation is rejected, the President of the Republic can, on a conforming decision of the Constitutional Court, legislate by ordinance. At the expiration of the time period mentioned in the first paragraph of this Article, the ordinances may only be modified by the law in their provisions that are of the legislative domain.

TITLE VIII

OF THE JUDICIAL POWER

Article 133

A judicial power is instituted, exercised by the Supreme Court, the Court of Accounts and of Budgetary Discipline, the Courts of Appeal and the other national jurisdictions.

The judicial power decides on the litigations born from the application of the law and of the regulation.

Article 134

The Supreme Court, the Court of Accounts and Budgetary Discipline, the Courts of Appeal and the other national jurisdictions are created by the organic laws that establish their organization, their composition and their functioning.

Article 135

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

Article 136

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

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

Article 137

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

The executive power cannot, decide on the disagreements, or impede the course of justice, nor oppose itself to the execution of a decision of justice.

The legislative power cannot, decide on the disagreements, or modify a decision of justice.

Any law, of which the goal is to furnish the solution to a process in course, is null and of no effect.

Article 138

No one may be arbitrarily detained.

The judicial power, guardian of the fundamental rights and freedoms, assures the respect for this principle within the conditions established by the law.

Article 139

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

Article 140

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

The Superior Council of the Magistrature decides as council of discipline and as organ of administration of the career of the Magistrates.

Article 141

The members of the Supreme Court and the magistrates of the other national jurisdictions are appointed by the President of the Republic, on proposal from the Superior Council of the Magistrature.

The presiding Magistrates are irremovable.

Article 142

The law establishes the particular statute of the sole body of the Magistrates.

Article 143

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

TITLE IX

OF THE CONSTITUTIONAL COURT

Article 144

A Constitutional Court is instituted.

The Constitutional Court includes nine members whose mandate is of nine years and renewable. It is renewed by thirds every three years.

Three members of the Constitutional Court are appointed by the President of the Republic. The other members are appointed by the President of the Republic on the basis of two members on a proposal from the President of each chamber of the Parliament and of two members on a proposal from the Bureau of the Supreme Court from among the members of that jurisdiction.

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

Article 145

The functions of member of the Constitutional Court are incompatible with those of member of the Government, of the Parliament or of the Supreme Court. The notable persons condemned for forfeiture, high treason, perjury, economic crimes, war crimes, genocide or for any other crime against humanity, may not be members of the Constitutional Court.

The other incompatibilities are established by the law.

Article 146

The Constitutional Court is given the charge of the control of the constitutionality of the laws, of the international treaties and agreements.

It sees to the regularity of the election of the President of the Republic. It examines the claims and proclaims the results of the ballot.

Article 147

With the exception of the local elections and the preparatory acts for the elections, the Constitutional Court, in the case of dispute, decides on the regularity of the legislative and senatorial elections.

It sees to the regularity of the operations of the referendum and proclaims the results.

The electoral law determines the jurisdiction competent to take cognizance of the disputes concerning the local elections and of the preparatory acts of the elections.

Article 148

The Constitutional Court is referred to a matter by the President of the Republic, by the President of the National Assembly, by the President of the Senate or by a third of the members of each chamber of the Parliament.

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

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

However, on the express demand of the petitioner, this time period can be reduced to ten days, if there is urgency.

The referral to a matter of the Constitutional Court suspends the time period for the promulgation of the law or for the implementation of the Internal Regulations.

Article 149

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

In the case of a plea of unconstitutionality, the referred jurisdiction postpones its decision and grants the petitioner a time period of one month from the notification of the decision.

Article 150

A provision, declared unconstitutional, cannot be, promulgated or implemented. The decisions of the Constitutional Court are not susceptible to any recourse. They impose themselves on the public powers, on all the administrative, jurisdictional and individual authorities.

Article 151

An organic law determines the rules of organization, of composition and of the functioning of the Constitutional Court, the procedure to be followed and, notably, the time periods for referring a matter to it.

TITLE X

OF THE HIGH COURT OF JUSTICE

Article 152

A High Court of Justice is instituted.

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

The High Court of Justice is presided over by the President of the Supreme Court.

Article 153

The High Court of Justice is competent to judge the President of the Republic in the case of high treason.

Article 154

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

Article 155

The coauthors and the accomplices of the persons referred to in Articles 153 and 154 are equally justiciable before the High Court of Justice without it being necessary that the act of impeachment concerning them emanates from the Parliament.

Article 156

An organic law determines the organization, the composition and the functioning of the High Court of Justice.

TITLE XI

OF THE ECONOMIC AND SOCIAL COUNCIL

Article 157

An Economic and Social Council is instituted.

Article 158

The Economic and Social Council is, vis-à-vis the public powers, a consultative assembly.

It may, on its own initiative, refer to itself any problem of an economic or social character of interest to the Republic of the Congo.

It may, in addition, be referred to a matter by the President of the Republic, the President of the National Assembly or the President of the Senate.

The Economic and Social Council may, equally, be consulted on the drafts of international treaties and agreements, the bills or the proposals of laws as well as the bills of decrees by virtue of their economic and social character.

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

Article 159

The function of member of the Economic and Social Council is incompatible with that of parliamentarian, of Minister, of member of the Constitutional Court, of prefect, of mayor, of sub-prefect or of local councilor.

Article 160

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

TITLE XII

OF THE SUPERIOR COUNCIL OF THE FREEDOM OF COMMUNICATION

Article 161

A Superior Council of the Freedom of Communication is created.

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

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

Article 162

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

TITLE XIII

OF THE MEDIATOR OF THE REPUBLIC

Article 163

A Mediator of the Republic is instituted.

Article 164

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

Article 165

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

Article 166

The law establishes the conditions of the organization, of the appointment and of the referral of a matter to the Mediator of the Republic.

TITLE XIV OF THE NATIONAL COMMISSION OF THE RIGHTS OF MAN

Article 167

A National Commission of the Rights of Man is instituted.

Article 168

The National Commission of the Rights of Man is a monitoring organ of the promotion and of the protection of the rights of man.

Article 169

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

TITLE XV

OF THE PUBLIC FORCE

Article 170

The public force is composed by the national police, by the national gendarmerie and by the Congolese armed forces.

Article 171

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

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

Article 172

The law establishes the missions, determines the organization and the functioning as well as the special statute of the personnel of the police, of the gendarmerie and the Congolese armed forces.

Article 173

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

TITLE XVI

OF THE LOCAL COLLECTIVITIES

Article 174

The local collectivities of the Republic of the Congo are the department and the commune.
The other local collectivities are created by the law.

Article 175

The local collectivities administer themselves freely through elected councils and within the conditions specified by the law, notably in that which concerns their competences and their resources.

Article 176

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

Article 177

An organic law establishes the conditions in which the State exercises its protection concerning the decentralized collectivities.

TITLE XVII

OF THE INTERNATIONAL TREATIES AND AGREEMENTS

Article 178

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

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

Article 179

The law determines the agreements dispensed from the procedure of ratification. The President of the Republic and the Parliament are informed of all negotiations tending to the conclusion of an international agreement not submitted to ratification.

Article 180

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

Article 181

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

Article 182

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

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

Article 183

If the Constitutional Court has declared that an international engagement includes a clause contrary to the Constitution, the authorization to ratify it or to approve it may only intervene after the revision of the Constitution.

Article 184

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

TITLE XVIII

OF THE REVISION OF THE CONSTITUTION

Article 185

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

No procedure for the revision may be engaged or pursued when it infringes the integrity of the territory.

The republican form, the secular character of the State, the number of mandates of the President of the Republic, as well as the rights enunciated at Titles I and II may not be made the object of revision.

Article 186

When it emanates from the President of the Republic, the bill of revision is submitted directly to referendum, after the opinion of conformity of the Constitutional Court.

When it emanates from the Parliament, the proposal of revision must be voted by two-thirds of the members of the two chambers of the Parliament meeting in Congress, after the opinion of conformity of the Constitutional Court.

In the two cases, the revision is only definitive after being approved by referendum.

Article 187

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

TITLE XIX

TRANSITORY AND FINAL PROVISIONS

Article 188

The laws, the ordinances and the regulations now in force, when they are not contrary to this Constitution, remain applicable as long as they are not expressly modified or abrogated.

Article 189

The political institutions of the period of transition function until the effective installation of the organs issuing from the general elections.

The effective installation of all the institutions specified in this Constitution takes place, at the maximum, twelve months after its approval by referendum.

Article 190

The end of the transition is declared by a decision of the Supreme Court, sitting in a constitutional matter referred to it by the President of the Republic.

This decision is announced by the President of the Republic in office, in a message to the Nation in the seventy-two hours that follow.

The President of the Republic, elected in the course of the electoral process, takes the oath of office after the announcement of the end of the period of transition.

Article 191

This Constitution, which abrogates the Fundamental Act of 24 October 1997, is submitted to the approval of the People by way of referendum. It will be published in the Journal Officiel [Official Gazette] after its adoption and it enters into force from the end of the period of transition, in conformity with Article 190.