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## *Gabon*

**Constitution of the Gabonese Republic**  
**26 March 1991**

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# CONSTITUTION OF THE GABONESE REPUBLIC

## Law No. 3/91

The National Assembly deliberated and adopted;

The President of the Republic, Head of State, promulgates the law of which the tenor is as follows:

### PREAMBLE

The Gabonese people, conscious of their responsibility before History, animated by the willingness to assure its independence and its national unity, to organize the common life according to the principles of national sovereignty, of multiparty democracy, of social justice, and of republican legality;

Solemnly affirms their adherence to the Rights of Man and to the fundamental freedoms such as they result from the Declaration of the Rights of Man and of the Citizen of 1789, consecrated by the Universal Declaration of Human Rights of 1948, by the African Charter of the Rights of Man and of Peoples of 1981, and by the National Charter of Freedoms of 1990;

Solemnly proclaims their adherence to their profound and traditional social values, to their cultural, material and spiritual patrimony, to the respect for the freedoms, for the rights and for the duties of the citizen.

By virtue of these principles and of that of the sovereignty of the people, they adopts this Constitution.

### PRELIMINARY TITLE

#### Of Fundamental Principles and Rights

##### Article 1

The Gabonese Republic recognizes and guarantees the inviolable and imprescriptible Rights of Man, which obligatorily bind the public powers.

1) each citizen has the right to the free development of his personality, within respect for the rights of others and of the public order. No one may be humiliated, mistreated or tortured, even when he is in a state of arrest or of imprisonment;

2) the freedom of conscience, of thought, of opinion, of expression, of communication, the free practice of religion, are guaranteed to all, under reserve of respect for the public order;

3) the freedom to come and go in the interior of the territory of the Gabonese Republic, to leave it and to reenter it, is guaranteed to all Gabonese citizens, under reserve of respect for public order;

4) the right to [a] defense, within the framework of a process, are guaranteed to all; preventative detention must not exceed the time provided for by the law;

5) the secrecy of correspondence, of postal, telegraphic, telephonic, and telematic [*télématique*] communications is inviolable. Restrictions to this inviolability may only be ordered in application of the law, for reasons of public order and of security of the State;

6) the limits of the usage of computing systems [*informatique*] for [the] safeguarding of Man, personal and family intimacy of persons, and the plain exercise of their rights, are established by the law;

7) each citizen has the right to work and the right to obtain an employment. No one may be prejudiced in their work by virtue of their origins, of their gender [*sexe*], of their race, [or] of their opinions;

8) the State, according to its possibilities, guarantees to all, notably to the child, to the mother, to the handicapped, to the aged workers and to the elderly, the protection of health, social security, a preserved natural environment, rest and leisure.

9) all Gabonese citizens sojourning or residing abroad benefit from the protection and the assistance of the State, within the conditions established by the national laws or the international agreements;

10) all persons, either individually or collectively, have the right to property. No one may be deprived of their property, except for cause of public necessity, legally declared, demanding it and subject to the condition a just and prior indemnification; however, the expropriations of immovable [assets] engaged for cause of public utility, for insufficiency or absence of exploitation [*mis en valeur*], and concerning registered properties, are regulated by the law;

11) all Gabonese have the right to freely establish their domicile or their residence in any place of the national territory and to exercise there all activities, under reserve of respect for public order and of the law;

12) the domicile is inviolable. Search may only be ordered by a judge or by other authorities designated by the law. Searches may only be executed in the forms prescribed for them. The measures infringing the inviolability of the domicile or limiting it may only be taken to evade collective dangers or to protect the public order from imminent threats, notably to fight against the risks of epidemics or to protect persons in danger;

13) the right to form political associations, parties or formations, syndicates, societies, establishments of social interests as well as religious communities, is guaranteed to all within the conditions established by the law; the religious communities regulate and administer their affairs in an independent manner, under reserve of respect for the principles of national sovereignty, public order and of preserving the moral and mental integrity of the individual.

The political associations, parties or formations, syndicates, societies, establishments of social interests as well as the religious communities of which the activities are contrary to the laws, or to the good relationship between the ethnic groups or groupings [*groupes ou ensembles*] may be prohibited according to the terms of the law.

Any act of racial, ethnic or religious discrimination, as well as any regionalist propaganda capable of infringing the internal or external security of the State or the integrity of the Republic are punished by the law;

14) the family is the basic natural unit of society; marriage is [its] legitimate support. They are placed under the particular protection of the State;

15) the State has the duty to organize a general census of the population every ten years;

16) the care [*soins*] to be given to children and their education constitute, for parents, a natural right and a duty which they exercise under the surveillance and with the aid of the State and the public collectivities. Parents have the right, within the framework of the scholarly obligation, to decide on the moral and religious education of their children. The children have, vis-a-vis the State, the same rights in what concerns assistance as well as their physical, intellectual and moral development;

17) the protection of youth against exploitation and against moral, intellectual and physical abandonment, is an obligation of the State and of the public collectivities;

18) the State guarantees equal access of the child and of the adult to instruction, to professional training and to culture;

19) the State has the duty to organize public teaching [*enseignement*] on the principle of the religious neutrality and, according to its possibilities, on the basis of gratuity; the presentation of diplomas [*collation des grades*] remains the prerogative of the State;

However, the freedom of teaching is guaranteed to all. Any person may open a preschool, primary, secondary, [or] superior establishment or a university, within the conditions established by the law.

The law establishes the conditions of participation of the State and of the public collectivities in the financial expenditures of the private establishments of teaching, recognized of public utility.

In the public establishments of teaching, the religious instruction may be dispensed to students at the demand of their parents, within the conditions determined by the regulations.

The law establishes the conditions of functioning of private teaching establishments taking into account their specificity;

20) the nation proclaims the solidarity and the equality of all before the public expenditures; everyone must participate, in proportion to their resources, to the financing of public expenses.

The nation proclaims in addition the solidarity of all before the expenditures which result from natural and national calamities;

21) each citizen has the duty to defend the fatherland and the obligation to protect and to respect the Constitution, the laws and the regulations of the Republic;

22) the defense of the nation and the safeguarding of the public order are essentially assured by the forces of national defense and security. In consequence, no person, no group of persons may constitute themselves in [a] private militia or paramilitary grouping; the forces of national defense and security are at the service of the State.

In times of peace, the Gabonese Armed Forces may participate in the work of economic and social development of the nation;

23) no one may be arbitrarily detained [*détenu*];

No one may be detained [*gardé à vue*] or placed under [a] mandate of detention [*mandat de dépôt*] if they present the sufficient guarantees of representation, under reserve of necessities of security and of procedure.

All defendants are presumed innocent until the establishment of their culpability following a regular process, offering the indispensable guarantees to their defense.

The judicial power, guardian of the individual freedom, assures the respect for these principles within the time periods established by the law.

## **TITLE I**

### **Of the Republic and of Sovereignty**

#### **Article 2**

Gabon is an indivisible, secular, democratic and social Republic. It affirms the separation of the State and of the religions and recognizes all beliefs, under reserve of respect for the public order.

The Gabonese Republic assures the equality of all citizens before the law, without distinction of origin, of race, of gender, of opinion or of religion.

The national emblem is the tricolor flag, green, yellow, blue in three horizontal bands, of equal dimension.

The national anthem is "*La Concorde*".

The motto of the Republic is: "*Union-Travail-Justice*" [Union-Work-Justice].

The seal of the Republic is a "Nursing Maternity".

Its principle is: "Government of the people, by the people and for the people."

The Gabonese Republic adopts French as [the] official language of work. In addition, it works for the protection and the promotion of the national languages.

The capital of the Republic is Libreville. It may only be transferred by virtue of a referendum law.

The national holiday is celebrated on 17 August.

#### Article 3

National sovereignty belongs to the people who exercises it directly, by the referendum or by the election, according to the principle of multiparty democracy, and indirectly by the constitutional institutions.

No section of the people, no group, [or] no individual may arrogate the exercise of national sovereignty.

#### Article 4

Suffrage is universal, equal and secret. It can be direct or indirect, within the conditions provided for by the Constitution or by the law.

Within the conditions provided for by the law, all Gabonese of both genders, having attained 18 years of age, enjoying their civil and political rights[,] are electors and eligible.

#### Article 5

The Gabonese Republic is organized according to the principle of national sovereignty and to that of the separation of the executive, legislative, and judicial powers.

#### Article 6

The political parties and groupings participate in the expression of suffrage. They form and exercise their activity freely, within the framework established by the law, according to the principles of multiparty democracy.

#### Article 7

Any act infringing the republican form, the unity, the secularity of the State, the sovereignty and the independence, constitutes a crime of high treason punishable by the law.

## TITLE II

### Of the Executive Power

#### I

### Of the President of the Republic

#### Article 8

The President of the Republic is the Head of the State; he sees to the respect for the Constitution; he assures, by his arbitration, the regular functioning of the public powers as well as the continuity of the State.

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

He determines, in concert [*concertation*] with the government, the policy of the nation.

He is the supreme holder of the executive power which he shares with the Prime Minister.

#### Article 9

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

The President of the Republic is elected by the absolute majority of the suffrage expressed. If this is not obtained in the first round, it proceeds, the second Sunday following, to a second round.

Only the two candidates having received the largest number of votes in the first round may present themselves in the second round.

In the second round, the election is acquired by a relative majority.

#### Article 10

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

In the case of death or of incapacity of one of the two most favored candidates in the first round before eventual withdrawals, the Constitutional Court declares that it must be proceed de novo to the whole of the electoral operations; it is the same in the case of the death or of the incapacity of one of the two candidates remaining in competition in the second round.

The Constitutional Court may extend the time periods specified, in accordance with Article 11 below, [and] the ballot may not take place more than thirty-five days after the date of the decision of the Constitutional Court. If the application of the provisions of this paragraph have for effect to delay the election to a date later than the expiration of the mandate of the President in exercise, he remains in [his] function until the election of his successor.

All Gabonese of both genders enjoying their civil and political rights, at least forty years and at most sixty-five years of age[,] are eligible to the Presidency of the Republic.

No person having acquired the Gabonese nationality may present himself as a candidate to the Presidency of the Republic. Only his descendants having remained without discontinuity in Gabon may [so do], starting with the fourth generation.

The modalities of application of this Article are established by an organic law.

#### Article 11

The mandate of the President of the Republic begins the day he takes the oath and ends at the expiration of the fifth year following his election.

The election of the President of the Republic takes place at least one month and at most two months, before the expiration of the mandate of the President in exercise.

He may not shorten his mandate in whatever manner in order to solicit another.

If the President of the Republic in exercise presents himself as a candidate, the National Assembly may not be dissolved. He may not, in addition, from the moment of the official announcement of his candidature until the election, exercise

his power to legislate by ordinance. In the case of necessity, the National Assembly is convoked in extraordinary session.

#### Article 12

When entering into [his] function, the President of the Republic solemnly takes the oath below, in [the] presence of the Parliament, [and] of the Constitutional Court, the left hand placed on the Constitution, the right hand raised before the national flag:

“I swear to consecrate all my efforts for the good of the Gabonese People, with the view of assuring its well-being and to preserve it from all damages, to respect and to defend the Constitution and the State of Law, to conscientiously fulfill the duties of my function [*charge*] and to be just toward all.”

#### Article 13

In the case of vacancy of the Presidency of the Republic for whatever cause that may be, or of definitive incapacity of its titular declared by the Constitutional Court referred to [the matter] by the government and deciding by the absolute majority of its members, the functions of the President of the Republic, with the exception of those provided for in Articles 18, 19, and 118, paragraph 2, are provisionally exercised by the President of the National Assembly and, if he is incapacitated in his turn, by the First Vice President of the National Assembly. In this case, neither the one nor the other may be [a] candidate to the presidential election.

In the case of vacancy or when the incapacity is declared definitive by the Constitutional Court, the ballot for the election of the new President takes place, except in the case of force majeure declared by the Constitutional Court, at least thirty days and at the most forty-five days after the opening of the vacancy or of the declaration of the definitive character of the incapacity.

#### Article 14

The functions of President of the Republic are incompatible with the exercise of any other public function and private activity of a lucrative character.

#### Article 15

The President of the Republic appoints the Prime Minister who must obtain the investiture of the National Assembly after the constitution of the government and the presentation of his program of general policy.

He terminates his functions, on his own initiative, or on the presentation by the Prime Minister of the resignation of the government, or following a vote of no confidence or the adoption of a motion of censure by the National Assembly.

On proposal of the Prime Minister, he appoints the other members of the government and terminates their functions.

#### Article 16

The President of the Republic convokes and presides over the Council of Ministers and orders [*arrête*] the agenda. He is substituted, the case arising, by the Prime Minister, on an express enablement and for a determined agenda.

#### Article 17

The President of the Republic promulgates the laws definitively adopted within the twenty-five days which follow their transmission to the government. This time period may be reduced to ten days in the case of urgency declared by the National Assembly or the government.

The President of the Republic can, during the time period of promulgation, demand of the Parliament a new deliberation of the law or of certain of its

Articles. This new deliberation may not be refused. The text so submitted to a second deliberation must be adopted by a majority of two-thirds of its members, either in its original form, or after modification. The President of the Republic promulgates it within the time periods established above.

In default of promulgation of the law by the President of the Republic within the conditions and time periods above, he must refer the text to the Constitutional Court.

In case of rejection of the recourse by the Constitutional Court and if the President of the Republic persists in his refusal, the President of the National Assembly promulgates the law within the conditions and the time periods provided for above.

#### Article 18

The President of the Republic, on his own initiative, or on proposal of the government, or on proposal of the National Assembly taken by the absolute majority of its members may, during the time of the sessions, submit to referendum any bill of law concerning application of the principles contained in the Preamble or the Preliminary Title of the Constitution and directly or indirectly concerning the functioning of the institutions.

When the referendum has concluded with the adoption of the bill, the President of the Republic promulgates it in accordance with Article 17 above.

#### Article 19

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

However, the recourse to this prerogative, limited to two times in the course of the same presidential mandate, may not intervene consecutively within the twelve months which follow the first dissolution.

The general elections take place at least thirty days and at most forty-five days, after publication of the decree concerning dissolution.

The National Assembly meets of plain right the second Tuesday which follows its election. If this meeting takes place outside of the time periods provided for the ordinary sessions, a session is opened of plain right for a duration of fifteen days.

If, following the second dissolution, a majority is not favorable to him, the President of the Republic may present his resignation.

The President of the National Assembly refers [the matter] to the Constitutional Court with a view to the organization of new Presidential elections.

The electoral body is convoked within the time period of at least thirty days and at most forty-five days after the resignation of the President of the Republic, in accordance with Article 9.

#### Article 20

The President of the Republic appoints, in the Council of Ministers, to the superior civil and military employments [*emplois*] of the State, in particular, the ambassadors and the envoys extraordinary as well as the superior and general officers.

An organic law defines the mode of accession to these employments.

#### Article 21

The President of the Republic accredits the ambassadors and envoys extraordinary before the foreign powers and to the international organizations. The ambassadors and envoys extraordinary are accredited before him.

#### Article 22

The President of the Republic is the Supreme Head of the armed forces and [forces] of security. He presides over the superior councils and committees of the national defense.

He is substituted, the case arising, by the Prime Minister, on an express enablement and for a determined agenda.

#### Article 23

The President of the Republic has the right of pardon.

#### Article 24

The President of the Republic communicates with the National Assembly by messages which he has read by the President of this institution. On his demand, he may be heard by the Parliament. These communications do not give rise to any debate.

Out of session, the National Assembly meets specially for this purpose.

#### Article 25

The President of the Republic may, when the circumstances so demand, after deliberation of the Council of Ministers and vote of the National Assembly by a majority of two-thirds, proclaim by decree the state of siege, the state of alert or the state of urgency, which confer on him special powers, within the conditions determined by the law.

#### Article 26

When the institutions of the Republic, the independence or the superior interests of the nation, the integrity of its territory or the execution of its international engagements are menaced in a grave and immediate manner and that the regular functioning of the constitutional public powers is interrupted, the President of the Republic takes by ordinance, during the inter-sessions, promptly, the measures demanded by the circumstances, and after official consultation with the National Assembly as well as with the Constitutional Court.

He informs the nation of this [*en*] by a message.

During the sessions, these measures arise within the domain of the law.

The National Assembly may not be dissolved, nor the revision of the Constitution opened or achieved.

#### Article 27

The acts of the President of the Republic other than those specified in Articles 15 paragraph 1, 17 paragraphs 1, 2, and 3, [Articles] 18, 19, 23, 24, 78, 79, 98, and 116, must be countersigned by the Prime Minister and the ministers responsible for their execution.

## II

### Of the Government

#### Article 28

The Government conducts the policy of the nation, under the authority of the President of the Republic and in concert with him.

It has at [its] disposal, to this effect, the administration of the forces of defense and of security.

The Government is responsible before the President of the Republic and the National Assembly, within the conditions and the procedures provided for by this Constitution.

#### Article 29

The Prime Minister directs the action of the government. He assures the execution of the laws. Under reserve of the provisions of Article 20 above, he exercises the regulatory power and appoints to the civil and military employments of the State. He substitutes for the President of the Republic in the specified [*précités*] cases. He can delegate certain of his powers to other members of the government.

The interim of the Prime Minister is assured by a member of the government designated by a decree of the President of the Republic, in accordance with the order of nomination of the decree establishing the composition of the government.

The Minister assuring the interim of the Prime Minister is invested, by temporary title, with the plenitude of the powers of the Prime Minister.

The acts of the Prime Minister are countersigned by the members of the government responsible for their execution.

#### Article 30

The bills of law, of ordinances and of regulatory decrees are deliberated in the Council of Ministers, after the opinion of the Administrative Chamber.

#### Article 31

The Government is composed of the Prime Minister, of the ministers and of the secretaries of the State.

The Prime Minister is the Head of government.

The members of the government are chosen from within the National Assembly and from outside of it.

They must be at least 35 years of age, have a professional experience of 7 years and enjoy their civil and political rights.

Any member of the government or any other citizen defeated in an uninominal election may not be redirected or appointed within a government within the eighteen months which follow this election.

#### Article 32

The functions of member of the government are incompatible with the exercise of a parliamentary mandate.

An organic law establishes the treatments and the advantages granted to the members of the government and enumerates the other public functions and private activities of which the exercise is incompatible with their functions.

#### Article 33

The members of the Government are [in] political solidarity [*politiquement solidaires*]. They are criminally responsible for the crimes and misdemeanors committed in the exercise of their functions.

#### Article 34

In the case of resignation, the government assures the expedition of current affairs until the constitution of a new government.

### TITLE III

#### Of the Legislative Authority

##### Article 35

The legislative power is represented by a Parliament called [the] National Assembly.

The members of the National Assembly bear the title of Deputy.

They are elected for a duration of five years by direct universal suffrage.

The National Assembly is integrally renewed at the termination of the legislature.

##### Article 36

The Parliament votes the law, consents to taxes and controls the action of the executive power within the conditions provided for by this Constitution.

##### Article 37

An organic law establishes the number of Deputies, their indemnity, the modalities and the conditions of their election as well as the regime of ineligibilities and incompatibilities.

It equally establishes the conditions in which the persons called to assure, in the case of vacancy of a seat, the replacement of the Deputies until the renewal of the National Assembly, are elected, as well as the regime of ineligibilities and incompatibilities.

##### Article 38

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

During the sessions, a member of the Parliament may only, be prosecuted, investigated or arrested in [a] criminal, correctional or simple police matter with the authorization of the Bureau of the National Assembly, except in the case of flagrante delicto or of definitive condemnation.

The detention or the prosecution of a member of the Parliament is suspended until the end of their mandate, except in the case of lifting of the parliamentary immunity.

##### Article 39

Any imperative mandate is null. The right to vote of the members of the Parliament is personal.

The regulations of the Assembly exceptionally authorize the delegation of the vote. No one may receive the delegation of more than one mandate.

##### Article 40

The Parliament meets of plain right the first business [*ouvrable*] day following the fifteenth day after its election. Its agenda includes then[,] exclusively[,] the election of its President and of its Bureau.

The President of the National Assembly and the other members of the Bureau are elected by their peers by secret suffrage, for a duration of thirty months renewable, in accordance with the provisions of the regulations of the National Assembly.

However, at any moment, after their entry into function, the National Assembly may relieve them of their mandate following a vote of no confidence for grave fault, the majority of two-thirds for the President and by the absolute majority for the other members of the Bureau.

#### Article 41

The Parliament meets of plain right in the course of two ordinary sessions per year.

The first session opens the third Tuesday of April; its duration may not exceed fifteen days. The second session opens the first Tuesday of October and ends at the latest the third Friday of December.

The opening of the session is postponed to the next day if that day is a holiday or, the case arising, the first business day which follows.

#### Article 42

The Parliament meets of plain right during the duration of the state of siege and in the case provided for in Article 26 above.

#### Article 43

The Parliament meets in extraordinary session, on the convocation of the President of the National Assembly, for a specific agenda, at the demand, either of the President of the Republic on proposal of the Prime Minister, or of the absolute majority of the members of the National Assembly.

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

They may not exceed a duration of fifteen days.

#### Article 44

The sittings of the National Assembly are public. An integral record of the debates is published in the Journal of Debates.

The public powers assure the faithful retransmission of the debates of the National Assembly through the media of the State in accordance with the provisions of the regulations of the National Assembly.

The National Assembly may sit in closed session, at the demand, either of the President of the Republic, or of the Prime Minister or of one-fifth of its members.

#### Article 45

The National Assembly votes its regulations which may enter into force only after having been recognized as conforming to Constitution by the Constitutional Court. Any ulterior modification is equally submitted to this latter.

#### Article 46

The National Assembly enjoys financial autonomy.

### **TITLE IV**

#### **Of the Relations Between the Executive Power and the Legislative Power**

#### Article 47

Outside of the cases expressly provided for by the Constitution, the law establishes the rules concerning:

- the exercise of the fundamental rights and duties of citizens;
- the constraints imposed on Gabonese and on foreigners in their person and their assets, with a view to, notably, public utility and national defense;
- nationality, the state and the capacity of the persons, the matrimonial regimes, the inheritance and gifts, the status of foreigners and immigration;
- the organization of civil estate;

- the conditions of the usage of computing systems [*informatique*] so that honor, the personal and family intimacy of citizens, as well as the plain exercise of their rights are safeguarded;
  - the electoral regime of the National Assembly and of the local assemblies;
  - judicial organization, the creation of new orders of jurisdiction and the status of the magistrates;
  - the organization of the ministerial and public offices, the professions of ministerial officers;
  - the determination of crimes and misdemeanors as well as of the penalties which are applicable to them, the criminal procedure, the penitentiary regime and amnesty;
  - the state of readiness [*mise en garde*], the state of urgency, the state of alert and the state of siege;
  - the regime of the associations, of the parties, of the political formations, and of the trade-unions;
  - the basis, the tax and the modalities of collecting taxes of all natures, the regime of issuance of the currency;
  - the general status of the public function and of the specific [*particuliers*] statuses;
  - the nationalization of enterprises and the transfer of ownership of enterprises of the public sector to the private sector;
  - the creation or the suppression of autonomous public establishments and services;
  - the general administrative and financial organization;
  - the creation, the functioning and the free administration of the territorial collectivities, their competences, their resources and their tax basis;
  - the conditions of participation of the State in the capital of all companies [*sociétés*] and the control by it of the administration of these companies;
  - the regime of [the public] domain, [of] land use, forestry, mining and habitat;
  - the protection of the artistic, cultural and archeological patrimony;
  - the protection of nature and of the environment;
  - the regime of property, of real rights and of civil and commercial obligations;
  - the loans and financial engagements of the State;
  - the programs of economic and social action;
  - the conditions within which the laws of finance are presented and voted and the accounts of the nation [are] regulated.
  - the laws of finance determining the resources and the expenditures of the State within the conditions provided for by an organic law;
  - the program laws [*lois de programme*] establishing the objectives of the State in economic, social, cultural and national defense matters.
- The law determines in addition [the following] fundamental principles;
- teaching;
  - health;
  - social security;

- right to work;
- syndical right including the conditions of exercise of the right to strike;
- insurance and savings;
- the general organization of the national defense and of the public security.

The provisions of this Article may be made precise or made complete by an organic law.

#### Article 48

All the resources and the expenditures of the State must, for each financial year [*exercice financier*], be evaluated and inscribed in the annual bill of law of finance deposited by the government to the National Assembly at the opening of the second ordinary session and at the latest the thirtieth of October.

If, at the termination of the budgetary session, the Parliament adjourns [*se sépare*] without having voted [a] balanced budget [*budget en équilibre*], the government is authorized to re-conduct by ordinance the preceding budget. This ordinance may nevertheless provide for, in case of necessity, any reduction of expenses or augmentation in receipts. At the demand of the Prime Minister, the Parliament is convoked within fifteen days in extraordinary session for a new deliberation. If the Parliament has not voted [a] balanced budget at the end of this extraordinary session, the budget is definitively established by ordinance taken in the Council of Ministers and signed by the President of the Republic.

The new receipts which may be created, if it concerns direct taxes and similar contributions or taxes, are collected counting from the first of January.

The Chamber of Accounts assists the Parliament and the government in the control of the execution of the law of finances. The bill of [the] law of regulations established by the government, accompanied by the general declaration of conformity and of the general report of the Chamber of Accounts, must be deposited with the National Assembly at the latest the fifteenth of October of the year which follows that of the execution of the law of finances concerned.

#### Article 49

The declaration of war by the President of the Republic is authorized by the Parliament with the majority of two-thirds of its members.

#### Article 50

The extension of the state of siege, beyond twenty-one days, is authorized by the National Assembly with the majority of two-thirds of its members.

#### Article 51

Matters other than those which are of the domain of the law have a regulatory character. They are made the object of decrees of the President of the Republic.

These matters may, for the application of these decrees, be made the object of orders [*arrêtés*] taken by the Prime Minister or, on delegation of the Prime Minister, by the ministers responsible or by the other administrative authorities enabled to do so.

#### Article 52

The government may, in case of urgency, for the execution of its program, demand of the Parliament the authorization to take by ordinances during the parliamentary intersession, the measures which are normally of the domain of the law.

The ordinances are taken in the Council of Ministers after the opinion of the Administrative Chamber and signed by the President of the Republic. They enter into force from their publication.

They must be ratified by the Parliament in the course of its next session.

The Parliament has the possibility to modify the ordinances by way [voie] of amendments.

In the absence of a law of ratification, the ordinances are struck down as lapsed.

The ordinances may be modified by another ordinance or by a law.

#### Article 53

The initiative of law belongs concurrently to the government and to the Parliament.

#### Article 54

The bills of law are deliberated in the Council of Ministers, after the opinion of the Administrative Chamber, and deposited with the Bureau of the National Assembly.

In the name of the Prime Minister, a member of the government is responsible for, the case arising, presenting [its] motives and supporting the discussion before the National Assembly.

The bill or the proposal of an organic law is submitted to the deliberation and to the vote of the National Assembly only after the expiration of a time period of fifteen days after its deposit.

All the proposals of law transmitted to the government by the National Assembly and which were not made the object of an examination within a time period of sixty days are deliberated[,] of office[,] within the National Assembly.

#### Article 55

The members of the government have the right of amendment. The proposals of law and the amendments of parliamentary origin are irreceivable when their adoption would have as consequence, either a diminution of the public receipts, or the creation or the aggravation of a public charge without the redemption [dégagement/release] of the corresponding receipts.

The amendments must not be devoid of any link with the text to which they correspond.

If the Government so demands, the National Assembly decides by a sole vote on all or part of the text in discussion, retaining in it only the amendments proposed or accepted by the government.

#### Article 56

If it appears, in the course of the legislative procedure, that a text or an amendment is not of the domain of the law, in the sense of Article 47 above, or exceeds the limits of the legislative enablement granted to the government by virtue of Article 52, the Prime Minister or the President of the National Assembly may raise irreceivability, at the demand of one-fifth of its members.

In the case of disagreement, the Constitutional Court is referred to [the matter]. It decides in a time period of eight days.

Any person damaged [lésée] by a text judged unconstitutional may equally refer [the matter] to the Constitutional Court which must decide within the same time period.

If this time period is not respected, the text becomes lapsed.

#### Article 57

The agenda of the National Assembly includes, by priority and in the order established by it, the discussion of the bills of law presented by the government and of the proposals of law accepted by it.

The Government is informed of the agenda of the works of the National Assembly and of the commissions.

The Prime Minister and the other members of the government have the right of access to and speech in the National Assembly and in its commissions. They are heard by it at their demand or the demand of the commissions.

#### Article 58

Urgency of the vote of a law may be demanded, either by the Government, or by the members of the Parliament by the absolute majority.

When concerning urgency concerning the organic laws, the time period of fifteen days is reduced to eight days.

#### Article 59

The bills and proposals of law are sent, for examination, to the competent commissions of the National Assembly before deliberation in plenary sitting.

After the opening of the public debates, no amendment may be examined if it has not been previously submitted to the competent commission.

#### Article 60

The organic laws provided for in by Constitution are deliberated and voted according to the normal legislative procedure.

The organic laws, before their promulgation, are deferred to the Constitutional Court by the Prime Minister.

#### Article 61

The means of control of the legislative on the executive are the following: interpellations, the written and oral questions, the commissions of inquiry and of control, the motion of censure exercised by the National Assembly within the conditions provided for in Article 63 of this Constitution.

One meeting per week is reserved to the questions of the Deputies and to the responses of the members of the Government.

The executive is held to furnish the Parliament all the elements of information which are demanded of it concerning its conduct and its activities.

#### Article 62

An organic law determines the conditions in which the written question may be transformed into an oral question with debate, and the conditions of organization and of functioning of the commissions of inquiry and control.

One sitting per week is consecrated to the examination of the oral questions relative to current matters.

#### Article 63

The Prime Minister, after deliberation of the Council of Ministers, engages the responsibility of the government before the National Assembly, by posing the question of confidence, either concerning a declaration of general policy, or on the vote of a text of law.

The debate on the question of confidence may only intervene three working days after it has been posed. Confidence may only be refused by an absolute majority of the members composing the National Assembly.

#### Article 64

The National Assembly engages [*met en cause*] the responsibility of the government by the vote of a motion of censure. Such a motion is receivable only if it is signed by at least one-quarter of the members of the National Assembly.

The vote of the motion of censure may only take place three working days after its edposit. The motion of censure may only be adopted by an absolute majority of the members of the National Assembly.

In case of rejection of the motion of censure, its signatories may not propose a new one in the course of the same session, except in the case provided for in Article 65 below.

#### Article 65

When the National Assembly adopts a motion of censure or refuses its confidence in the Prime Minister, he must immediately remit his resignation to the President of the Republic.

The resignation of the Prime Minister entails the collective resignation of the government.

A new Prime Minister is then appointed within the conditions provided for in Article 15.

#### Article 66

The closing of the ordinary and extraordinary sessions is delayed by right in order to permit, the case arising, the application of the provisions of Articles 25, 26 and 50 above.

### TITLE V

#### Of the Judicial Power

##### I

#### Of the Judicial Authority

#### Article 67

Justice is rendered, in the name of the Gabonese people, by the Constitutional Court, the Supreme Court, the Courts of Appeal, the Tribunals, the High Court of Justice and the other jurisdictions of exception.

#### Article 68

Justice is an authority independent of the legislative power and of the executive power.

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

#### Article 69

The President of the Republic is the guarantor of the independence of the judicial power, within the respect for the provisions of this Constitution, notably in its Article 36. He is assisted by the President of the Supreme Court and by the Superior Council of the Magistrature.

#### Article 70

The Superior Council of the Magistrature sees to the good administration of justice, and hence decides on the appointments, the apportionment [*affectations*], the advancements, and the discipline of the magistrates.

#### Article 71

The Superior Council of the Magistrature is presided over by the President of the Republic assisted by the President of the Supreme Court, Vice President.

The legislative power is represented within the Superior Council of the Magistrature by five parliamentarians chosen by the President of the National Assembly from different parties.

#### Article 72

The composition, the organization and the functioning of the Superior Council of the Magistrature are established by an organic law.

## II

### Of the Supreme Court

#### Article 73

The Supreme Court is composed of three chambers:

- the Judicial Chamber
- the Administrative Chamber
- and the Chamber of Accounts

Each Chamber deliberates separately according to its area [*chef*] of competence. The orders are invested with the absolute authority over the thing judged.

#### Article 74

The Supreme Court is presided over by a professional magistrate appointed by the President of the Republic from a list of aptitude established by the judicial corps.

The President of the Supreme Court is assisted by a Vice President appointed under the same conditions.

#### Article 75

The magistrates figuring on the lists of aptitude must have at least 15 years of professional experience, be at least 40 years of age and demonstrate [*faire preuve*] a recognized competence.

#### Article 76

The competences of the Supreme Court and of each of its Chambers are determined, temporarily, by the laws in force at the moment of the promulgation of this Constitution.

However, the electoral and referenda competences of the Administrative Chamber are transferred to the Constitutional Council from the entry into force of this Constitution.

The President of the Supreme Court presents each year a report of activities to the President of the Republic and to the President of the National Assembly. He may, on this occasion, call the attention of the public powers to reforms of legislative order or regulatory [*order*] which appear to him in accordance with the general interest.

#### Article 77

An organic law establishes the organization, the composition, the competence and the functioning of the Supreme Court.

### III

#### **Of the High Court of Justice and the Other Jurisdictions of Exception**

##### **I - Of the High Court of Justice**

#### Article 78

The High Court of Justice is a non-permanent jurisdiction of exception.

It judges the President of the Republic in case of violation of the oath or of high treason.

The President of the Republic is impeached by the Parliament deciding by the two-thirds majority of its members, by public ballot.

During the inter-session, the decree of convocation of the Parliament will be exceptionally taken by the Prime Minister.

The Presidents and Vice Presidents of the constituted corps and the members of the Government are criminally responsible before the High Court of Justice for the acts accomplished in the exercise of their functions and qualified as crimes or misdemeanors at the moment when they were committed, as well as their accomplices and co-authors in the case of infringement of the security of the State.

In this case, the High Court of Justice is referred to [the matter], either by the President of the Republic, or by the President of the National Assembly, or by the Procurator General before the Supreme Court acting of office or by referral [to the matter] by any interested person.

#### Article 79

The High Court of Justice is bound, with the exception of the judgment of the President of the Republic, by the definition of the crimes and misdemeanors as well as by the determination of the penalties such as they result from the criminal laws in force at the moment when the acts were committed.

#### Article 80

The High Court of Justice is composed of thirteen members of which seven [are] professional magistrates designated by the Superior Council of the Magistrature and six members elected by the Parliament from within it, pro rata with the elected members [*effectifs*] of the parliamentary groups.

The President and the Vice President of the High Court of Justice are elected from among the magistrates referred to in the first paragraph by the whole of the members of this institution.

#### Article 81

The rules of functioning of the High Court of Justice, the procedure applicable before it and the definition of the crimes asserted against [*reproché*] to the President of the Republic are established by an organic law.

#### **II – Of the Other Jurisdictions of Exception**

#### Article 82

The other jurisdictions of exception are equally non-permanent instances.

**TITLE VI**  
**Of the Constitutional Court**

Article 83

The Constitutional Court is the highest jurisdiction of the State in constitutional matters. It is the judge of the constitutionality of the laws and it guarantees the fundamental rights of the human person and the public freedoms. It is the regulatory organ of the functioning of the institutions and of the activity of the public powers.

Article 84

The Constitutional Court decides obligatorily on:

- the constitutionality of the organic laws and of the laws before their promulgation, of the regulatory acts that supposedly [*censés*] infringe the fundamental rights of the human person and the public freedoms;
- the regulations of the National Assembly, of the National Council of Communication and of the Economic and Social Council before their entry into application, concerning their conformity to the Constitution;
- the conflicts of attribution between the institutions of the State;
- the regularity of all the elections and of the operations of referendum of which it proclaims the results.

The Constitutional Court is referred to [a matter], in the case of dispute on the validity of an election, by any elector, any candidate, any political party or by the delegate of the government within the conditions provided for by the organic law.

Article 85

The organic laws are submitted by the Prime Minister to the Constitutional Court before their promulgation.

The other categories of laws as well as regulatory acts may be deferred to the Constitutional Court, either by the President of the Republic, or by the Prime Minister, or by the President of the National Assembly or one-tenth of the Deputies, or by the President of the Supreme Court, or by any citizen or any moral person damaged by the contested law or act.

The Constitutional Court decides, according to a contradictory procedure of which modalities are established by the organic law, within the time period of one month. However, at the demand of the government and in case of urgency, this time period is reduced to eight days. The recourse suspends the time period of promulgation of the law or the application of the act.

A provision declared unconstitutional may not be promulgated or applied.

Article 86

Any justiciable person [*justiciable*] may, on the occasion of a process before an ordinary tribunal, raise a pleadings [*exception*] of unconstitutionality against a law or an act which affect recognition of [*méconnaît*] their fundamental rights.

The presiding judge evaluates the merit [*bien fondé*] of the said pleadings and, in the affirmative, refers [the matter] to the Constitutional Court by way of a prejudicial pleadings [*exception préjudicielle*].

The Constitutional Court decides within a time period of one month. If it declares the incriminatory law contrary to the Constitution, this law ceases to produce its effects counting from the decision.

The Parliament examines, during the course of the next session, within the framework of a procedure of remand [*procédure de renvoi*], the consequences deriving from the decision of non-conformity to the Constitution rendered by the Court.

#### Article 87

The international engagements, provided for in Articles 113 to 115 below must be deferred, before their ratification, to the Constitutional Court, either by the President of the Republic, or by the Prime Minister, or by the President of the National Assembly, or by one-tenth of the Deputies.

The Constitutional Court verifies, within a time period of one month, if its obligations [*engagements*] include a clause contrary to the Constitution. However, at the demand of the government, if there is urgency, this time period is reduced to eight days.

In the affirmative, these obligations may not be ratified.

#### Article 88

Outside of the other competences provided by the Constitution, the Constitutional Court has [at its] disposal the power to interpret the Constitution, at the demand of the President of the Republic, of the Prime Minister, of the President of the National Assembly, or of one-tenth of the Deputies.

#### Article 89

The Constitutional Court includes nine (9) members who bear the title of councilors.

The duration of the mandate of the councilors is of seven (7) years renewable one time.

The nine members of the Constitutional Court are designated as follows:

- three appointed by the President of the Republic including at least two jurists;
- three appointed by the President of the National Assembly including at least two jurists;
- three magistrates designated by the Superior Council of the Magistrate:

The councilors are principally chosen from among the professors of law, the attorneys and the magistrates having at least 15 years of activity as well as from among the qualified notable persons [*personnalités*] who have honored the service of the State.

The President of the Constitutional Court is elected by his peers.

In the case of temporary incapacity, his interim is assured by the eldest councilor.

In the case of death or of resignation of a member, the new member appointed by the concerned authority of appointment completes the mandate [already] commenced.

The former Presidents of the Republic are honorary members of the Constitutional Court with consultative voice.

#### Article 90

The functions of members of the Constitutional Court are incompatible with any other public function or any private or professional activity.

The members of the Constitutional Court take an oath in the course of a solemn ceremony presided over by the President of the Republic, before the National Assembly and the Supreme Court meeting.

They take the following oath, the left hand placed on the Constitution and the right hand raised before the national flag:

“I swear to conscientiously fulfill the duties of my function [*charge*] in strict respect for the obligations of neutrality and of reserve, and to conduct myself as a dignified and loyal magistrate.”

#### Article 91

The Constitutional Court presents each year a report of activities to the President of the Republic, to the President of the National Assembly and to the President of the Supreme Court, on the occasion of which it may call the attention of the public powers on the impact of its decisions in legislative and regulatory matters.

#### Article 92

The decisions of the Constitutional Court are not susceptible to any recourse. They impose themselves upon the public powers, on all the administrative and jurisdictional authorities and on all physical and juridical [*morales*] persons.

#### Article 93

The rules of organization and of functioning of the Constitutional Court, as well as the procedure followed before it, are determined by an organic law.

### TITLE VII

#### Of the National Council of Communication

#### Article 94

Audiovisual and written communication is free in the Gabonese Republic, under reserve of respect for the public order, for the freedom and for the dignity of citizens.

#### Article 95

A National Council of Communication is instituted for this effect responsible for seeing to:

- respect for the expression of democracy and the freedom of the press throughout the territory;
- access of citizens to a free communication;
- equal treatment of all political parties and associations;
- respect for the rules concerning the conditions of production, of programming and of diffusion of the emissions relative to the electoral campaigns;
- control of the programs and of the regulations in force in matters of communication, as well as of the rules of exploitation;
- respect for the status of the professionals of communications;
- the harmonization of the programs among the public channels of radio and television;
- the policy of production of the audiovisual and cinematographic works;
- the promotion and the development of techniques of communication and of the training of personnel;
- respect for the quotas of the Gabonese programs diffused on the public and private radio and television channels;
- control of the content and of the modalities of the programming of the emissions of publicity diffused by the public and private radio and television channels;

- control of the specifications of contracting [*cahier de charges*] of the public and private enterprises;
- the protection of childhood and youth [*adolescence*] in the programming of the emissions diffused by the public and private enterprises of audiovisual communication;
- the defense of and the illustration of Gabonese culture.

#### Article 96

In the case of violation of the law by the interested parties, the National Council of Communication may address to them public observations and have the appropriate sanctions applied.

#### Article 97

Any conflict opposing the National Council of Communication against another public organ [*organisme*] will be resolved through the diligence of one of the parties by the Constitutional Court.

#### Article 98

The National Council of Communication includes nine members designated as follows:

- three by the President of the Republic including a specialist of communication;
- three by the President of the National Assembly including a specialist of communication;
- and three elected by the professionals of audiovisual communication and the written press.

#### Article 99

The members of the National Council of Communication must have competence in matter of communications, of public administration, of the sciences, of the law, of culture or of the arts, have a professional experience of at least fifteen years and be at least forty years of age.

#### Article 100

The duration of the mandate of the members of the National Council of Communication is of five years renewable one time.

In the case of death or of resignation of a member, the new member appointed by the concerned appointing authority completes the original mandate.

#### Article 101

The President of the National Council of Communication is elected by his peers.

In the case of temporary vacancy, the eldest member assures the interim of the President.

#### Article 102

An organic law establishes the organization and the functioning of the National Council of Communication, as well as the regime of incompatibilities.

### **TITLE VIII**

#### **Of the Economic and Social Council**

#### Article 103

The Economic and Social Council, under reserve of the provisions of Article 8, paragraph 3, [Article] 28 paragraph 1 and Article 53 above has competence over all aspects of economic, social and cultural development:

- the general orientation of the economy of the country;
- the financial and budgetary policy;
- the raw materials [*matières premières*] policy;
- the social and cultural policy;
- the environmental policy.

#### Article 104

The Economic and Social Council participates in all commissions of national interest of an economic and social character.

It collects and redirects, with the participation of the different entities that compose it, to the attention of the President of the Republic, of the government and of the Parliament, the annual collection of the expectations, of the needs and of the problems of the civil society with orientations and proposals.

#### Article 105

The Economic and Social Council is responsible for giving its opinion on all the questions brought to its examination by the President of the Republic, the government, the National Assembly or any other public institution.

The Economic and Social Council is obligatorily consulted on any bill of the law of finance, any bill of [an] economic or social plan or program as well as on any legislative provision of a fiscal, economic or social character.

#### Article 106

The Economic and Social Council may equally proceed with the analysis of any problem of economic or social development. It submits its conclusions to the President of the Republic, to the government and to the National Assembly.

#### Article 107

The Economic and Social Council may designate one of its members, at the demand of the President of the Republic, of the Government or of the National Assembly, to present before these organs the opinion of the Council on the bills or proposals submitted to it.

The Government and the Parliament have the obligation, when they are referred to [a matter], to follow up on the opinions and reports formulated by the Economic and Social Council within a maximum period of three months for the government and before the end of the current session for Parliament.

The Economic and Social Council receives an official copy of the laws, ordinances and decrees on their promulgation. It monitors [*suit*] the execution of the decisions of the Government relative to economic and social organization.

#### Article 108

[The following] are members of the Economic and Social Council:

- representatives of the trade-unions, the socio-professional associations or groups [*groupements*], elected by their associations or groups of origin;
- superior offices [*cadres*] of the State in the economic and social domain;
- representatives of the local collectivities designated by their peers.

#### Article 109

The Economic and Social Council meets each year of plain right in two ordinary sessions of fifteen days each. The first session opens the third Tuesday of February and the second, the first Tuesday of September.

The opening of each session is delayed to the next day if the day provided for is not [a] working [day].

The sittings of the Economic and Social Council are public.

#### Article 110

The President and the Vice President of the Economic and Social Council are elected within the Council by their peers at the opening sitting of the first session for a mandate of four years renewable.

No member of the Economic and Social Council may be prosecuted, investigated or judged for the opinions expressed by them during the sittings of the Council.

#### Article 111

The internal organization, the rules of functioning and of designation of the members of the Economic and Social Council are established by the law.

### **TITLE IX**

#### **Of the Local Collectivities**

#### Article 112

The local collectivities of the Republic are created by the law. They may only be modified or eliminated after the opinion of the interested councils and within the conditions established by the law.

They freely administer themselves through the councils elected within the conditions provided by the law, notably in that which concerns the competences and their resources.

### **TITLE X**

#### **Of the International Treaties and Agreements**

#### Article 113

The President of the Republic negotiates the international treaties and agreements and ratifies them on the authorization of the National Assembly.

The President of the Republic and the President of the National Assembly are informed of any negotiation tending towards [*tendant à*] the conclusion of an international agreement not submitted to ratification.

#### Article 114

Peace treaties, commercial treaties, treaties relative to international organization, treaties that engage the finances of the State, those which modify the provisions of legislative nature, [and] those which are relative to the status [*état*] of persons may only be approved and ratified by virtue of a law.

No amendment is receivable on this occasion. Treaties take effect only after having been regularly ratified and published.

No cession, no exchange, [and] no addition of territory is valid without the prior consultation of the Gabonese people by way of referendum.

### **TITLE XI**

#### **Of Agreements of Cooperation and Association**

#### Article 115

The Gabonese Republic concludes with sovereignty agreements of cooperation or of association with other States. It accepts to create with them international organs [*organismes*] of common administration, of coordination and of free cooperation.

## TITLE XII

### Of the Revision of the Constitution

#### Article 116

The initiative of revision belongs concurrently to the President of the Republic, the Council of Ministers heard [*entendu*], and to the members of the Parliament.

Any proposal of revision must be deposited with the Bureau of the National Assembly by at least one-third of the Deputies.

Any bill or proposal of revision is submitted, for [its] opinion, to the Constitutional Court.

The revision is acquired either by way of referendum, or by a majority of two-thirds of the members of the National Assembly.

In this case, a qualified majority of two-thirds of the suffrage expressed is required.

In the same way, the revision of the Constitution may not be opened [*entamée*] or achieved, in case of interim of the Presidency of the Republic, of recourse to the powers of crises of Article 26 above or in case of infringement of the integrity of the territory.

#### Article 117

The Republican form of the State, as well and the pluralist character of the democracy are intangible and may not be [made] the object of any revision.

## TITLE XIII

### Of Transitory Provisions

#### Article 118

The new institutions of the Republic provided for by this Constitution will be put in place no later than a time period of one year counting from its promulgation.

The President of the Republic in exercise remains in [his] function until the initial term of his mandate, in strict respect for the provisions of this Constitution.

#### Article 119

This Constitution, adopted by the National Assembly abrogates that of 28 May 1990.

#### Article 120

This Constitution will be published in the *Journal Officiel* [Official Gazette] and executed as law of the Republic.

Done in Libreville, the 26 March 1991

By the President of the Republic, Head of State

El Hadj Omar BONGO

The Prime Minister, Head of Government

Casimir OYE-Mba

The Minister of State, Minister of Justice, Guardian of the Seals

Michel ANCHOUÉY