



[HeinOnline](#)

Citations:

Bluebook 20th ed.  
English translation of the Constitution of 1991 as amended to Law No. 13/2003 of 18 August 2003. 1 (1991) Title Page

ALWD 6th ed.

Chicago 7th ed.  
, " Constitution of the Gabonese Republic, 1991 (2003): 1-2

OSCOLA 4th ed.  
, " (2003) 1

Provided by:  
Harvard Law School Library

- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at <https://heinonline.org/HOL/License>
- The search text of this PDF is generated from uncorrected OCR text.

# *World Constitutions Illustrated*

*Edited by*  
Jefri Jay Ruchti

---

## *Gabon*

**Constitution of the Gabonese Republic, 1991  
As Consolidated to Law No. 13/2003  
of 19 August 2003**

*Translated by*  
Jefri J. Ruchti

---

William S. Hein & Co., Inc.  
Buffalo, New York  
2011

This translation is based on the official French texts of the original Constitution of 1991, and the consolidations of 1997, 2000, and 2003 made available by the Global Information Network (GLIN) of the Law Library of Congress, together with the texts of the amending laws of 1994, 1995 and 1997, made available at the same source: [www.glin.gov](http://www.glin.gov). Also consulted were the text as amended to 2003 made available at the web site of the Senate of Gabon: [www.senatgabon.net/](http://www.senatgabon.net/); an official text consolidated to 2003 made available at the private web site [www.coopgabon.net/thanguy/la-constitution-de-la-republique-gabonaise/constitution.pdf](http://www.coopgabon.net/thanguy/la-constitution-de-la-republique-gabonaise/constitution.pdf); and the text as provided by the Association des Cours Constitutionnelles ayant en Partage l'Usage du Français (ACCPUF) [www.accpuf.org/images/pdf/cm/gabon/031-tf-txt\\_const.pdf](http://www.accpuf.org/images/pdf/cm/gabon/031-tf-txt_const.pdf).

Cite as: Constitution of the Gabonese Republic, 1991, as consolidated to Law No. 13/2003 (Aug. 19, 2003) (HeinOnline World Constitutions Illustrated library 2011)

Copyright © 2011 by William S. Hein & Co., Inc.  
All rights reserved.

# CONSTITUTION OF THE GABONESE REPUBLIC

Law No. 3/91 of March 26, 1991

Modified by Law No 1/94 of 18 March 1994

Law No. 18/95 of 29 September 1995

Law No. 1/97 of 22 April 1997

Law No. 14/2000 of 11 October 2000

Law No. 13/2003 of 19 August 2003

The National Assembly and the Senate,

have deliberated and adopted:

The President of the Republic, Head of State,

promulgates the law having the following wording:

## PREAMBLE

*[Amended by Law No. 1/97 of 22 April 1997; 14/2000 of 11 October 2000;]*

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

Solemnly affirm their adherence to the rights of Man and to the fundamental freedoms such as they derive from the Declaration of the Rights of Man and of the Citizen of 1789 and [from] the Universal Declaration of Human Rights of 1948, consecrated by the African Charter of the Rights of Man and of Peoples of 1981, and by the National Charter of Liberties of 1990;

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

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

## PRELIMINARY TITLE

### OF FUNDAMENTAL RIGHTS AND PRINCIPLES

#### Article One

The Gabonese Republic recognizes and guarantees the inviolable and imprescriptible rights of Man, which obligatorily constrain the public powers:

- 1) Each citizen has the right to the free development of his person with respect for the rights of others and of the public order. No one may be humiliated, mistreated, or tortured, especially when he is in a state of arrest or imprisonment;
- 2) The freedom of conscience, of thought, of opinion, of expression, of communication, [and] the free practice of religion, are guaranteed to all, under the reserve of respect for the public order;
- 3) The freedom to travel within the interior of the territory of the Gabonese Republic, to leave it and to return to it, are guaranteed to all Gabonese citizens, under the reserve of respect for the public order;

4) The rights to a defense, in the order of a [judicial] process, are guaranteed to all; preventative detention cannot exceed the time specified by the law;

5) The secrecy of correspondence, of postal, telegraphic, telephonic, and telematic communications[,] is inviolable. Restriction of this inviolability can 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 information systems for the protection of Man, the personal and familial intimacy of persons, and the full exercise of their rights, are established by the law;

7) Each citizen has the duty to work and the right to obtain employment. No one may be discriminated against in his work for reason of his origin, his sex, his race, [or] his 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) Every Gabonese citizen traveling or residing abroad benefits from the protection and the assistance of the State, under conditions established by the national laws or the international agreements;

10) Every person, individually as well as collectively, has the right to property. No one can be deprived of his property, unless public necessity, legally declared, requires it and under the condition of a just and prior compensation; however, the expropriations of real property undertaken for cause of public utility, for the insufficiency or absence of productive use, and regarding unregistered properties, are regulated by the law;

11) Every Gabonese has the right to freely establish his domicile or his residence in any area whatever of the national territory and to exercise all activities there, under the reservation of respect for the public order and of the law;

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

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

The political associations, parties or formations, syndicates, societies, establishments of social interest as well as religious communities, of which the activities are contrary to law, or to the good relations of ethnic groups or ensembles[,] may be forbidden according to the provisions of the law.

Any act of racial, ethnic, or religious discrimination[,] equally of any regionalist propaganda infringing upon the internal or external security of the State or the integrity of the Republic is punishable by the law;

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

15) The State has the duty of organizing a general census of the population every ten years;

16) The support 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 of the public collectivities. The parents have the right, in the order of the educational obligation, to decide on the moral and religious education of their children. The children have, vis-à-vis the State, the same rights in that which concerns them as well as [its] assistance in their physical, intellectual and moral development;

17) The protection of the young against exploitation and against moral, intellectual and physical abandon, is an obligation for the State and the public collectivities;

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

19) The State has the duty to organize public education on the principle of religious neutrality and, according to the possibilities, on the basis of no cost gratuity; the granting of diplomas is the prerogative of the State;

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

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

In the establishments of public education, religious instruction may be dispensed to students upon the demand of their parents, under conditions determined by the regulations.

The law establishes the conditions of functioning of establishments of private education, taking into account their specialties;

20) The Nation proclaims the solidarity and the equality of all concerning public taxes; everyone must participate, in proportion to his resources, to the financing of public expenses.

The Nation proclaims in addition the solidarity of all concerning charges 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 preservation of the public order are primarily assured by the national defense and security forces.

In consequence, no person, no group of persons, may constitute itself in [a] private militia or paramilitary group; the national defense and security forces 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.

No one may be placed under surveillance or placed under a warrant for arrest if he presents sufficient guarantees of representation, under reservation of the necessities of security and of procedure.

Any accused is presumed innocent until the establishment of his guilt following a regular process, offering the guarantees indispensable to his defense.

The judicial power, guardian of the individual liberty, assures the respect of these principles within the time 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 State and religion and recognizes all beliefs, under the reserve of respect for public order.

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

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

The national anthem is "*La Concorde*."

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

The seal of the Republic is a "*Nursing Mother*."

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

The Gabonese Republic adopts French as the official working language. In addition, it strives for the protection and the promotion of the national languages.

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

The national holiday is celebrated on 17 August.

### Article 3

*[Amended by Law No. 1/94 of 18 March 1994]*

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

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

### Article 4

*[Amended by Law No. 1/94 of 18 March 1994; 13/2003 of 19 August 2003]*

Suffrage is universal, equal and secret. It can be direct or indirect, within the conditions provided by the Constitution or by the law. The ballot is in one round for all political elections.

With the conditions specified by the Constitution and by the law, all Gabonese of both sexes, of 18 years of age, enjoying their civil and political rights, are electors.

With the conditions specified by the Constitution and by the law, all Gabonese of both sexes, enjoying their civil and political rights, are eligible.

Article 5

*[Amended by Law No. 1/94 of 18 March 1994]*

The Gabonese Republic is organized according to the principles of national sovereignty, of the separation of the executive, legislative, and judicial powers and of the State of Law.

Article 6

*[Amended by Law No. 1/94 of 18 March 1994]*

The political parties and groups concur in the expression of suffrage. They form themselves and exercise their activities freely, within the order fixed by the law, according to the principles of multipartism. They must respect the Constitution and the law of the Republic.

Article 7

Any act infringing on the republican form, on the unity [or] on the secularity of the State in [its] sovereignty and independence, constitutes a crime of high treason punishable by the law.

**TITLE II  
OF THE EXECUTIVE POWER**

**I**

**The President of the Republic**

Article 8

The President of the Republic is the Head of 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 treaties.

He determines, in concert 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

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997; 13/2003 of 19 August 2003]*

The President of the Republic is elected for seven (7) years, by direct universal suffrage. He is re-eligible.

Election is acquired by the candidate who obtains the greatest number of votes.

Article 10

*[Amended by Law No. 1/97 of 22 April 1997; 13/2003 of 19 August 2003;]*

If, before the ballot, one of the candidates dies or finds himself incapacitated, the Constitutional Court decides [on] postponement of the election.

The Constitutional Court may extend the periods specified in conformity with Article 11 below; as long as the ballot does 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 article results in the postponement of the election to a date after the expiration of the mandate of the incumbent President, he shall continue in his functions until the election of his successor.



All Gabonese of both sexes enjoying their civil and political rights, of forty (40) years of age, at least, are eligible to the Presidency of the Republic.

Any person having acquired the Gabonese nationality cannot present himself as a candidate for the Presidency of the Republic. Only his descendants, having remained without discontinuity in Gabon, can [do so] starting with the fourth generation.

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

#### Article 11

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997;  
14/2000 of 11 October 2000]*

The mandate of the President of the Republic begins [on] the day of his taking the oath and ends on the expiration of the seventh year following his election.

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

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

If the current President of the Republic 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 Parliament is convoked in extraordinary session.

#### Article 11a

The taking of the oath defines the beginning of the presidential mandate. It cannot take place before the decision of the Constitutional Court concerning any electoral disputes to which it has been referred. The decision of the Constitutional Court intervenes within a maximum time period of one month counting from the fifteenth day which follows the proclamation of the results of the election.

If there are no disputes, the President of the Republic elect or reelect takes his oath on the expiration of the mandate of the current President.

If there are disputes, the current President of the Republic remains in [his] functions until the decision of the Constitutional Court.

In the case of death or definitive incapacity of the current President of the Republic, [who has not been] reelected, intervening before the end of his mandate, the President elect immediately takes the oath, if there are no disputes. In the case of a dispute, the interim is assured in accordance with the provisions of Article 13 below.

The death or definitive incapacity of the President of the Republic elect or reelect, intervening within the period between the proclamation of the results [and] of the expiration of the mandate of the incumbent president or of the decision of the Constitutional Court in case of dispute, leads to the repetition of the whole electoral operation with the conditions and time periods provided in Article 10 above. In this case, once the vacancy is established, the functions of the President of the Republic are assured in accordance to the provisions of Article 13 below.

Within the period between the proclamation of the results of the presidential election and the beginning of the new presidential mandate, the National Assembly may be not dissolved, nor may the revision of the Constitution be started or achieved.

#### Article 12

When he enters into his functions, the President of the Republic solemnly takes the oath below, in the presence of the Parliament, of the Constitutional Court, his left hand placed upon the Constitution, his right hand raised before the national flag:

*“I swear to consecrate all my efforts for the good of the Gabonese People, with the view to assure their well-being and to preserve them from all harm, to respect and defend the Constitution and the State of Law, to conscientiously fulfill the duties of my charge and to be just toward all.”*

#### Article 13

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

In the case of vacancy of the Presidency of the Republic for whatever case that may be, the definitive incapacity of the office-holder established by the Constitutional Court referred to [the matter] by the Government and deciding by the absolute majority of its members, or in default, by the Bureaus of the two Chambers of the Parliament deciding jointly by a majority of their members, the functions of the President of the Republic, with the exception of those provided for in Articles 18, 19 and 116, 1<sup>st</sup> paragraph, are provisionally exercised by the President of the Senate or, in case of incapacity duly ascertained by the Constitutional Court referred to [the matter] in the same conditions as above, by the First Vice President of the Senate.

The authority that assures the interim of the Presidency of the Republic, in the conditions of this article, may not present himself as a candidate in 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 ascertained by the Constitutional Court, thirty days at least and forty-five days at most, after the opening of the vacancy or of the declaration of the definitive character of the incapacity.

#### Article 14

*[Amended by Law No. 1/97 of 22 April 1997]*

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

#### Article 14a

*[Amended by Law No. 1/97 of 22 April 1997]*

The President of the Republic is assisted by a Vice President of the Republic.

The Vice President of the Republic is appointed by the President of the Republic who terminates his functions, after consultation of the Presidents of the two Chambers of the Parliament. The Vice President of the Republic is chosen from within the Parliament or outside of it.

#### Article 14b

*[Amended by Law No. 1/97 of 22 April 1997]*

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

Article 14c

*[Amended by Law No. 1/97 of 22 April 1997]*

The Vice President of the Republic takes an oath on the Constitution before the President of the Republic and in the presence of the Constitutional Court in the following terms:

*“I swear to respect the Constitution and the State of Law, to conscientiously fulfill the duties of my charge in the strict respect of its obligations of loyalty and confidentiality with regard to the Head of State.”*

Article 14d

*[Amended by Law No. 1/97 of 22 April 1997]*

The Vice President of the Republic substitutes for the President of the Republic in the functions which he delegates to him.

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

Article 14e

*[Amended by Law No. 1/97 of 22 April 1997]*

The functions of Vice President of the Republic cease on the issue of the proclamation of the presidential election by the Constitutional Court, and in case of vacancy of the Presidency of the Republic for any cause that may be of the definitive incapacity of the President of the Republic.

Article 15

*[Amended by Law No. 1/94 of 18 March 1994]*

The President of the Republic appoints the Prime Minister.

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 of the adoption of a motion of censure by the National Assembly.

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

Article 16

*[Amended by Law No. 1/97 of 22 April 1997]*

The President of the Republic convokes and presides over the Council of Ministers and determines its agenda.

The Vice President is a member of it of right. He substitutes for the President of the Republic, as need be, expressly enabled and for a specific agenda.

Article 17

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000]*

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, the Senate or the Government.

The President of the Republic can, during the time period of promulgation, demand of Parliament a new deliberation on the law or certain of its articles. This new deliberation cannot be refused. The text thus submitted to a second deliberation must be adopted by majority of two-thirds of its members, either in

its initial form, or after modification. The President of the Republic promulgates it within the time period specified above.

On default of promulgation of the law by the President of the Republic, in the conditions and time periods [specified] above, he can defer the text in the Constitutional Court.

In case of rejection of the recourse by the Constitutional Court, the President of the Republic promulgates the law within the conditions and time periods specified above.

#### Article 18

*[Amended by Law No.14/2000 of 11 October 2000]*

The President of the Republic, on his own initiative, or on the proposal of the Government, or on the proposal of the National Assembly and of the Senate, made by an absolute majority can, during the sessions, submit to referendum any Bill of law affecting [the] application of the principles contained in the Preamble or the Preliminary Title of the Constitution and affecting directly or indirectly 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

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

The President of the Republic can, after consultation with the Prime Minister and the Presidents of the two Chambers of the Parliament, 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 take place consecutively in the twelve months which follow the first dissolution.

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

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

#### Article 20

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

An organic law specifies the mode of accession to these positions.

#### Article 21

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

#### Article 22

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

He is substituted as need be, by the Prime Minister, expressly enabled and for a specific agenda.

#### Article 23

The President of the Republic has the right of pardon.

#### Article 24

*[Amended by Law No. 1/97 of 22 April 1997]*

The President of the Republic communicates with each Chamber of the Parliament by messages which he has read by the President of each of them. On his demand, he may be heard by either of the Chambers. Out of session, each of the Chambers is specially convoked to this effect. These communications do not give rise to any debate.

#### Article 25

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

The President of the Republic can, when circumstances require it, after deliberation of the Council of Ministers and [after] consultation with the Bureaus of the National Assembly and of the Senate, proclaim by decree the state of urgency or the state of siege, which confers special powers to him under conditions determined by the law.

#### Article 26

*[Amended by Law No. 14/2000 of 11 October 2000]*

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 commitments are menaced in a grave and immediate manner and when the regular functioning of the constitutional public powers is interrupted, the President of the Republic takes by ordinance, during the intersessions, with the least delay, the measures required by the circumstances, and after official consultation of the Prime Minister, of the Presidents of the National Assembly and of the Senate as well as of the Constitutional Court.

He informs the nation by a message.

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

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

#### Article 27

*[Amended by Law No. 1/97 of 22 April 1997]*

The acts of the President of the Republic other than those specified in Articles 15 (paragraph 1), 17, (paragraphs 1, 2 and 3), 18, 19, 23, 89, 98 and 116 must be countersigned by the Prime Minister and the members of the Government charged with 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 conducts, 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, under conditions and procedures specified by this Constitution.

#### Article 28a

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

Within a time period of forty-five (45) days at most, after his appointment and after deliberation of the Council of Ministers, the Prime Minister presents to the National Assembly his general political program which gives rise to a debate, followed by a vote of confidence. The vote is acquired by the absolute majority of the members of the National Assembly.

#### Article 29

The Prime Minister directs the action of the Government. He assures the execution of the laws. Under reserve of the provision of Article 20 above, he exercises the regulatory power and appoints to the civil and military offices of the State. He substitutes for the President of the Republic in the specified 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, following the order of nomination of the decree establishing the composition of the Government.

The Minister assuring the interim of the Prime Minister is invested, in temporary title, with the full powers of the Prime Minister.

The acts of the Prime Minister are countersigned by the members of the Government charged with their execution.

#### Article 29a

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

The Prime Minister can, when the circumstances require it, after deliberation of the Council of Ministers and consultation with the Presidents of the Chambers of the Parliament, proclaim by order the state of readiness [*état de mise en garde*] within the conditions determined by the law.

The proclamation of the state of alert [*état de alerte*], by order of the Prime Minister, takes place after deliberation of the Council of Ministers and consultation with the Bureaus of the two Chambers.

The extension of the state of readiness or the state of alert for more than twenty-one days is authorized by the Parliament.

#### Article 30

*[Amended by Law No. 1/94 of 18 March 1994]*

The Bills of law, of ordinances and of regulatory decrees are deliberated, in the Council of Ministers, after the advice of the Council of State.

#### Article 31

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

The Government is composed of the Prime Minister and the other members of the Government.

The Prime Minister is the Head of the Government.

The members of the Government are chosen both from within the National Assembly and outside of it. They must be thirty years of age at least and enjoy all of their civil and political rights.

A member of the Government is eligible to a national mandate and a local mandate.

Article 32

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

An organic law establishes the treatment and the benefits accorded to 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 politically interdependent. They are penally responsible for the crimes and misdemeanors committed in the exercise of their functions.

Article 34

*[Amended by Law No. 1/94 of 18 March 1994]*

The functions of the Government cease with the taking of the oath by the President of the Republic, and with the proclamation of the results of the legislative elections by the Constitutional Court.

In case of resignation, the Government assures the expeditious actions [concerning] of current affairs until the constitution of a new Government.

**TITLE III  
OF THE LEGISLATIVE POWER**

Article 35

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000]*

The legislative power is represented by a Parliament composed of two Chambers: the National Assembly and the Senate.

The members of the National Assembly have the title of Deputy. They are elected for a term of five years by direct universal suffrage.

The members of the Senate have the title of Senator. They are elected for a term of six years by indirect universal suffrage. They must be forty years of age at least. The Senate assures the representation of the local collectivities.

The Chambers of the Parliament are completely renewed one month at least and two months at most before the expiration of the current legislature.

The mandate of the Deputies begins on the day of the election of the members of the Bureau of the National Assembly and terminates with the expiration of the fifth year following the election.

The mandate of the Senators begins on the day of the election of the members of the Bureau of the Senate and terminates with the expiration of the sixth year following the election.

No division of electoral districts may occur in the year preceding the normal date of renewal of each of the Chambers.

Article 36

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

#### Article 37

*[Amended by Law No. 1/94 of 18 March 1994]*

An organic law establishes for each of the Chambers, the number of parliamentarians, 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[,] named to assure, in case of vacancy of a seat, the replacement of parliamentarians until the renewal of the concerned Chamber, are elected, as well as the regime of ineligibilities and of incompatibilities.

#### Article 38

*[Amended by Law No. 1/94 of 18 March 1994]*

No member of the Parliament may be prosecuted, investigated, arrested, detained or judged as a result of the opinions or votes emitted by him in the exercise of his functions.

A member of Parliament, during the sessions, may be prosecuted, investigated, arrested in a criminal, correctional or simple police matter with the authorization of the Bureau of the concerned Chamber, except in the case of flagrant offense or definitive condemnation.

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

#### Article 39

*[Amended by Law No. 1/94 of 18 March 1994; 18/95 of 29 September 1995]*

Any imperative mandate is null.

However, in the case of resignation or of the exclusion in the statutory condition of a member of Parliament of a political party to which he belongs at the time of his election, and if this party has presented his candidature, his seat becomes vacant from the date of his resignation or of its exclusion.

It subsequently proceeds within a time period of two months at most, to a partial election.

The right to vote of the members of Parliament is personal.

The regulations of each Chamber exceptionally authorize the delegation of the vote.

No one can receive the delegation of more than one mandate.

#### Article 40

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

Each Chamber of the Parliament meets of right on the first working day following the fifteenth day after its election. Its agenda [is] then composed exclusively of election of its President and of its Bureau.

The Presidents and the other members of the Bureaus of the National Assembly and of the Senate are elected by their peers, for one term of the legislature by secret ballot, in accordance with the provisions of the regulations of the concerned Chamber.

At any time, after entering into their functions, the concerned Chamber may relieve the President and the other members of the Bureau of their mandate following a vote of no-confidence, by absolute majority.



Article 41

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

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

The first session is opened on the first working day of March and terminates, at the latest, on the last working day of June.

The second session is opened on the first working day of September and terminates, at the latest, on the last working day of December.

Article 42

The Parliament meets of plain right during the term of a state of siege and in the case specified in Article 26 above.

Article 43

*[Amended by Law No. 1/94 of 18 March 1994]*

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

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

They cannot exceed a time period of fifteen days.

Article 44

*[Amended by Law No. 1/94 of 18 March 1994]*

The sessions of the Parliament are public. A complete account of the debates is published in the Journal of debates.

Each of the two Chambers can, under the control of its Bureau, have broadcast by the media of the State a retransmission of the debates, with respect for pluralism and conforming to the provisions of its regulations. Each of the two Chambers may receive the President of the Republic or a foreign Head of State or of a Government.

Each Chamber of the Parliament 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

*[Amended by Law No. 1/94 of 18 March 1994]*

Each Chamber of the Parliament adopts its own regulations which enter into force only after having been recognized as conforming to the Constitution by the Constitutional Court.

Any subsequent modification is equally submitted to it [the Constitutional Court.]

Article 46

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

Each Chamber of Parliament enjoys administrative and financial autonomy.

**TITLE IV**  
**OF THE RELATIONS BETWEEN THE EXECUTIVE POWER AND**  
**THE LEGISLATIVE POWER**

Article 47

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000]*

Besides the cases expressly specified by the Constitution, the law establishes the rules concerning:

- the exercise of the fundamental rights and duties of the citizens;
- the constraints imposed on Gabonese and on foreigners on their person and on their property, in view of public utility and of national defense, notably;  
nationality, the state and capacity of persons, the matrimonial regimes, inheritance and gifts, the status of foreigners and immigration;
- the organization of the civil estate;
- audiovisual, cinematographic or written communication;
- the conditions of the usage of information systems to the end that honor, personal and familial intimacy of citizens, as well as the full exercise of their rights will be safeguarded;
- the electoral regime of the National Assembly and of the local assemblies;
- the judicial organization, the creation of the several orders of jurisdiction and the status of magistrates;
- the organization of ministerial and public offices, the professions of ministerial officers;
- the determination of crimes and misdemeanors as well as the penalties which are applicable to them, the criminal procedure, the penitentiary regime and amnesty;
- the state of readiness, the state of urgency, the state of alert and the state of siege;
- the regime of associations, of parties, of political groups, and of syndicates;
- taxes, the tax rate and the modalities of recovery of impositions of any nature, the regime of issuing currency;
- the general statute of the public function and the particular statutes;
- the nationalization of enterprises and the transfer of property 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 management of the territorial collectivities, their competences, their resources and their tax bases;
- the conditions of participation of the State in the capital of all societies and of the control by the management of these societies;
- the regime of [the public] domain, [of] land use, forestry, mining and habitat;
- the protection of artistic, cultural and archeological patrimony;
- the protection of nature and the environment;

- the regime of ownership, of real rights and of civil and commercial obligations;
- the debts and financial commitments of the State;
- the programs of economic and social action;
- the conditions in which the laws of finance and the accounting evaluation of the Nation are introduced and adopted;
- the laws of finance determining the resources and the obligations of the State with the conditions specified by an organic law;
- the program laws establishing the objectives of the State in economic, social, cultural and national defense matters.

The law, in addition, otherwise determines the fundamental principles:

- of education;
- of health;
- of social security;
- of the right to work;
- of the syndicate including the exercise of the right to strike;
- of insurance and of savings;
- of the general organization of the national defense and of public security.

The provisions of this article may be made specific or completed by an organic law.

#### Article 48

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997;  
14/2000 of 11 October 2000]*

All resources and obligations of the State must, for each financial year [*exercice*], be evaluated and entered into the annual Bill of the Law of Finance deposited by the Government to the National Assembly forty-five (45) days at most after the opening of the second ordinary session.

If the National Assembly has not decided on the first reading in a time period of forty-five (45) days after the deposit of the Bill, the Government refers to Senate [to the matter] which must decide in a time period of twenty (20) days. It subsequently proceeds to its examination within the conditions specified in Article 58a.

If, at the termination of the budgetary session, the Parliament adjourns without having adopted a balanced budget, the Government is authorized to renew by ordinance the preceding budget.

This ordinance may nevertheless, in case of necessity, provide for any reduction of expenditures or augmentation of receipts. On 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 adopted the 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 they consist of direct taxes and of contributions or similar taxes, are recoverable from the first of January.

The Court of Accounts assists the Parliament and the Government in the control of the execution of the Law of Finance. The Bill of the law of regulation

established by the Government, accompanied by the general declaration of conformity and of general report of the Court of Accounts, must be deposited with the Parliament, at the latest, at the beginning of the first ordinary session of the second year which follows the exercise of execution of the budget concerned.

#### Article 49

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000]*

The declaration of war by the President of the Republic is authorized by the Parliament.

#### Article 50

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000]*

The extension of a state of urgency or of a state of siege beyond fifteen days, is authorized by the Parliament.

#### Article 51

The matters other than those which are of the domain of the law have a regulatory character. They are made the subject of decrees of the President of the Republic.

These matters may, for the application of these decrees, be made the subject of orders taken by the Prime Minister or by the responsible Ministers or by the other administrative authorities enabled to make them.

#### Article 52

The Government can, in case of urgency, for the execution of its program, demand of the Parliament the authorization to take by ordinance during 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 Council of State and signed by the President of the Republic. They enter into force on their publication.

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

Parliament has the possibility to modify the ordinances by way of amendments.

In the absence of a law of ratification, the ordinances are null and void.

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

#### Article 53

The initiative of laws belongs concurrently to the Government and to the Parliament.

#### Article 54

*[Amended by Law No. 1/94 of 18 March 1994]*

The Bills of law are deliberated in the Council of Ministers, after the opinion of the Council of State and deposited with the Bureau of one of the two Chambers of the Parliament.

In the name of the Prime Minister, a member of the Government is charged, as the case may be, with explaining the rationale and conducting the discussion before the Chambers of the Parliament.

The Bill or the proposal of an organic law can be submitted to the deliberation and to the vote of the Parliament only on the expiration of a time period of fifteen days after its deposit.

The Bills of the Law of Finance and the Bills of revision of the Constitution are deposited in the first reading to the National Assembly. The Bills of law concerning the local collectivities are deposited in the first reading with the Senate.

All proposals of law transmitted to the Government by the Parliament and which have not been the subject of an examination within a time period of sixty days are[,] of office[,] put into deliberation within the Parliament.

#### Article 55

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

The amendments must not lack a link to the text to which they correspond.

If the Government demands it, the Chamber referred to [the matter] decides by a single vote on all or part of the text in discussion and retaining only the amendments proposed or accepted by the Government.

#### Article 56

*[Amended by Law No. 1/94 of 18 March 1994]*

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 legislative habilitation granted to the Government by virtue of Article 52, the Prime Minister can raise its irreceivability, as well as the President of the concerned Chamber, at the demand of one-fifth of its members.

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

#### Article 57

*[Amended by Law No. 1/94 of 18 March 1994]*

The agenda of the Parliament consists of the discussion of the Bills of law deposited by the Government and of the proposals of law accepted by it.

The Government is informed of the agenda of the work of the Chambers and of their commissions.

The Prime Minister and the other members of the Government have the right of access and of speech in the Chambers of the Parliament and of their commissions. They are heard at their [own] demand or at that of the parliamentarians.

#### Article 58

The urgency of a vote of a law may be demanded, either by the Government, or by the members of Parliament by an absolute majority. Concerning urgency on the organic laws, the time period of fifteen days is reduced to eight days.

#### Article 58a

*[Amended by Law No. 1/94 of 18 March 1994]*

Any Bill or proposal of law is examined successively in the two Chambers of the Parliament with the view of 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 single reading by each of the Chambers, the Prime Minister has the competence to initiate the meeting of a mixed commission of the two Chambers, charged with proposing a text concerning the provisions remaining in discussion.

If the mixed commission is unable to adopt a common text, the Government refers the National Assembly [to the matter] which decides definitively.

If the mixed commission adopts a common text, this [text] becomes that of Parliament only if it is adopted separately by each of the Chambers.

The procedure concerning the budget is identical to that of the ordinary law, under reserve of the particular provisions specified in Article 48 above.

#### Article 59

*[Amended by Law No. 1/94 of 18 March 1994]*

The Bills and proposals of law are sent, for examination, to the competent commissions of each Chamber of the Parliament before deliberation in plenary session.

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

#### Article 60

The organic laws specified by the Constitution are deliberated and adopted according to the normal legislative procedure.

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

#### Article 61

*[Amended by Law No. 1/94 of 18 March 1994]*

The means of legislative control on the executive are the following: the interpellations, the written and oral questions, the commissions of inquiry and control, [and] the motion of censure exercised by the National Assembly under the conditions specified in Article 64 of this Constitution.

One meeting per week is reserved to the questions of the parliamentarians and to the responses by members of the Government. The current questions may be the subject of interpellations of the Government, even during the extraordinary sessions of the Parliament.

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

#### Article 62

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

One meeting per week is devoted to the examination of oral questions relative to current affairs.

Article 63

*[Amended by Law No. 1/97 of 22 April 1997]*

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

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

Article 64

The National Assembly engages the responsibility of the Government by the vote of a motion of censure. Such a motion is only receivable if it is signed by a least one-quarter of the members of the National Assembly.

The vote of the motion to censure can only take place three full days after its deposit. The motion of censure can only be adopted by an absolute majority of the members of the National Assembly.

In case of rejection of the motion of censure, the signatories cannot propose a new one in the course of the same session, except in the case specified in Article 65 below.

Article 65

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

The resignation of the Prime Minister leads to the collective resignation of the Government.

A new Prime Minister is then appointed under the conditions specified by Article 15.

Article 66

The closing of ordinary or extraordinary session is delayed by right in order to permit, as the case may be, 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

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000]*

Justice is rendered in the name of the Gabonese people by the Constitutional Court, the Court of Cassation, the Council of State, the Court of Accounts, 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

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000]*

The President of the Republic is the guarantor of the independence of the judicial power, with respect for the provisions of this Constitution, notably its Article 36. He is assisted by the Superior Council of the Magistrature and by the Presidents of the Court of Cassation, and of the Council of State and of the Court of Accounts.

Article 70

The Superior Council of the Magistrature sees to the good administration of justice, and decides for this purpose on the nominations, the placement, the advancement, and the discipline of the magistrates.

Article 71

*[Amended by Law No. 1/94 of 18 March 1994]*

The Superior Council of the Magistrature is presided over by the President of the Republic assisted by the Minister charged with Justice, Vice President.

The legislative power is represented within the Superior Council of the Magistrature by three Deputies and two Senators chosen by the President of each Chamber of the Parliament from the different parliamentary groups, and having consultative voice.

The Minister charged with finance assists the Superior Council of the Magistrature with consultative voice.

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 COURT OF CASSATION**

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000]*

Article 73

*[Amended by Law No. 14/2000 of 11 October 2000]*

The Court of Cassation is the highest jurisdiction in civil, commercial, social and criminal matters. It is divided into civil, commercial, social, and criminal chambers.

Each chamber deliberates separately according to its domain of competence.

The Court of Cassation may sit with all the chambers together under the conditions specified by the law.

The orders [*arrêts*] are invested with absolute authority over the matter judged.

Article 73a

*[Amended by Law No. 14/2000 of 11 October 2000; 13/2003 of 19 August 2003]*

The Court of Cassation enjoys autonomous financial management. The credits necessary for its functioning are written into the Law of Finance.



Article 73b

*[Amended by Law No. 13/2003 of 19 August 2003]*

An organic law establishes the organization, the composition, the competence and the functioning of the Court of Cassation as well as the Courts of Appeal and of the Tribunals of First Instance competent in civil, commercial, social and criminal matters.

**III**

**OF THE COUNCIL OF STATE**

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000]*

Article 74

*[Amended by Law No. 14/2000 of 11 October 2000]*

The Council of State is the highest jurisdiction of the State in administrative matters.

Article 75

*[Amended by Law No. 14/2000 of 11 October 2000]*

In addition to its jurisdictional competences, the Council of State is consulted under the conditions established by the organic law provided for in Article 75b below, and by other laws.

Article 75a

*[Amended by Law No. 14/2000 of 11 October 2000]*

The orders [*arrêts*] of the Council of State are invested with absolute authority over the matter judged.

Article 75b

*[Amended by Law No. 14/2000 of 11 October 2000; 13/2003 of 19 August 2003]*

The Council of State enjoys autonomous financial management. The credits necessary for its functioning are written into the Law of Finance.

Article 75c

*[Amended by Law No. 13/2003 of 19 August 2003]*

An organic law establishes the organization, the composition, the competence and the functioning of the Council of State.

**IV**

**OF THE COURT OF ACCOUNTS**

*[Amended by Law No. 1/94 of 18 March 1994]*

Article 76

*[Amended by Law No. 1/94 of 18 March 1994]*

The Court of Accounts is charged with the control of the public finances. To this effect:

- It assures the control of the execution of the Law of Finance and informs the Parliament and the Government of it;
- It verifies the regularity of the receipts and expenses described in the public accounts and assures, concerning these [accounts] the good use of the credits, funds and assets managed by the services of the State or by the other moral persons of public law;

- It assures the verification of the accounts and of the management of public expenses and organs with public financial participation;
- It reviews the accounts of public accountants;
- It declares and audits the active management [*gestions de fait*];
- It sanctions the errors of management committed concerning the State, the local collectivities and the organs submitted to its control.

Article 77

*[Amended by Law No. 1/94 of 18 March 1994; 13/2003 of 19 August 2003]*

The Court of Accounts enjoys autonomous financial management. The credits necessary for its functioning are written into the Law of Finance.

Article 77a

*[Amended by Law No. 13/2003 of 19 August 2003]*

An organic law establishes the organization, the composition, the other competences and the functioning of the Court of Accounts as well as the rules of procedure to be followed before it.

**V**

**OF THE HIGH COURT OF JUSTICE AND OF THE OTHER  
JURISDICTIONS OF EXCEPTION**

*[Amended by Law No. 1/94 of 18 March 1994]*

**A**

**OF THE HIGH COURT OF JUSTICE**

Article 78

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997; 14/2000 of 11 October 2000]*

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

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

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

During the intersession, the decree of convocation of the Parliament will be exceptionally taken by the Prime Minister.

The Vice President of the Republic, the Presidents and Vice Presidents of the constituent bodies, the members of the Government and the members of the Constitutional Court are criminally responsible before the High Court of Justice for acts accomplished in the exercise of their functions and qualified as crimes or misdemeanors at the time 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 Presidents of the Chambers of the Parliament, or by the Procurator General to the Court of Cassation acting of office or on the referral by any interested person.

Article 79

The High Court of Justice is limited, with the exception of judgment of the President of the Republic, by the definition of crimes and misdemeanors as well

as by the determination of penalties that result from the criminal laws in force at the time when the acts were committed.

#### Article 80

The High Court of Justice is composed of thirteen members of which seven professional magistrates are designated by the Superior Council of the Magistrature and six members are elected by the Parliament from among [its members], pro-rated from the members of parliamentary groups.

The President and the Vice President of the High Court of Justice are elected from among the magistrates specified in the preceding paragraph by all the members of this institution.

#### Article 81

The rules of the functioning of the High Court of Justice, the procedure applicable before it and the definition of crimes attributable to the President of the Republic are established by an organic law.

### **B**

#### **OF THE OTHER JURISDICTIONS OF EXCEPTION**

#### Article 82

*[Amended by Law No. 1/94 of 18 March 1994]*

The other jurisdictions of exception are equally non-permanent instances, created by the law.

### **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

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997; 14/2000 of 11 October 2000; 13/2003 of 19 August 2003]*

The Constitutional Court decides obligatorily on:

- the constitutionality of the organic laws and of the laws before their promulgation, of the regulatory acts infringing the fundamental rights of the human person and the public freedoms;
- the regulations of the National Assembly and of the Senate before their implementation, concerning their conformity with the Constitution;
- the regulations of the National Council of Communication and of the Economic and Social Council before their implementation concerning their conformity with the Constitution;
- the conflicts of attribution between the institutions of the State;
- the regulatory of the presidential elections, parliamentary [elections], of [elections to] local collectivities, and of the operations of the referendum of which it proclaims the results.

The Constitutional Court is referred to [the matter] in the case of dispute of the validity of an election, by any elector, any candidate, any political party or delegate of the Government under the conditions specified by the organic law.

Article 85

*[Amended by Law No. 1/94 of 18 March 1994]*

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

The other categories of law 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 Presidents of the Chambers of Parliament or one-tenth of the members of each Chamber, or by the Presidents of the Court of Cassation, of the Council of State and of the Court of Accounts, or by any citizen or any moral person affected by the law of the contested act.

A provision declared unconstitutional cannot be promulgated or applied.

Article 86

*[Amended by Law No. 1/97 of 22 April 1997]*

Any accused may, by way of a process before an ordinary tribunal, raise an exception of constitutionality against a law or an act which affects recognition of his fundamental rights.

The presiding judge refers the Constitutional Court to [the matter] by way of prejudicial exception.

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

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

Article 87

The international commitments, specified 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 these commitments contain 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.

If so affirmed, these commitments cannot be ratified.

Article 88

*[Amended by Law No. 1/97 of 22 April 1997]*

In addition to the other competences specified by the Constitution, the Constitutional Court has the power to interpret the Constitution, and the other texts of constitutional status, at the demand of the President of the Republic, of the Prime Minister, of the President of the Senate, of the President of the National Assembly, [or] of one-tenth of the Deputies of the Senators.

#### Article 89

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

The Constitutional Court consists of nine (9) members who have the title of Counselor.

The duration of the mandate of the Counselors is of seven (7) years renewable once.

The nine (9) members of the Constitutional Court are designated as follows:

- three by the President of the Republic, including the President;
- three by the President of the Senate;
- three by the President of the National Assembly.

Each of the authorities specified in the paragraph above obligatorily designates two (2) jurists at least one being a magistrate. The latter is chosen from a list of aptitude established by the Superior Council of the Magistrature.

The Counselors are chosen primarily from among the professors of law, the lawyers and the magistrates at least forty (40) years old and [having] 15 years of professional experience, as well as qualified persons [of distinction] having been honored for service to the State and at least forty (40) years old.

The President of the Constitutional Court is nominated for the duration of the mandate.

In the case of temporary incapacity, the interim of the President is assured by the eldest Counselor.

In the case of death or of resignation of a member, the new member named by the authority of nomination concerned completes the mandate commenced.

The former Presidents of the Republic are members of the Constitutional Court of right.

#### Article 90

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000]*

The functions of members of the Constitutional Court are incompatible with any other public function or with any private professional activity, under reserve of the exceptions specified by the organic law.

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 Parliament, the Court of Cassation, the Council of State and the Court of Accounts, together.

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 charge in strict respect of the obligations of neutrality and impartiality [reserve], and to conduct myself as a dignified and loyal magistrate.”*

#### Article 91

*[Amended by Law No. 1/94 of 18 March 1994]*

The Constitutional Court presents a report of [its] activities each year to the President of the Republic and to the Presidents of the Chambers of Parliament.

It may, on occasion, call the attention of the public powers to the effect of its decisions upon legislative and regulatory matters.

Article 92

The decisions of the Constitutional Court are not susceptible to any recourse. They are imposed on the public powers, on all the administrative and jurisdictional authorities and on all physical and moral persons.

Article 93

*[Amended by Law No. 14/2000 of 11 October 2000]*

The Constitutional Court enjoys autonomous financial management. The credits necessary to its functioning are written into the Law of Finance.

The rules of organization and functioning of the Constitutional Court, as well as the procedure to be 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, of liberty and of the dignity of the citizens.

Article 95

To this effect a National Council of Communication is instituted, charged to see:

- to the respect of the expression of democracy and of the freedom of the press in the whole of the territory;
- to the access of citizens to free communication;
- to equitable treatment of all political parties and associations;
- to the respect of regulation concerning the conditions of production, of programming and of diffusion of emissions relative to the electoral campaigns;
- to the control of the programs and of the regulations in force in matters of communication, as well as rules of exploitation;
- to the respect of the status of communications professionals;
- to the harmonization of programs between the public channels of radio and of television;
- to the policy of production of audiovisual and cinematographic works;
- to the promotion and to the development of techniques of communication and of instruction of personnel;
- to the respect of the quotas of Gabonese programs diffused on the public and private radio and television channels;
- to the control of the content and of the modalities of programming of emissions of publicity is diffused by the public channels of radio and of television;
- to the control of specifications [*cahiers de charges*] of public and private enterprises;
- to the protection of infancy and of adolescence in the programming of emissions diffused by public and private enterprises of audiovisual communication;
- to the defense and the illustration of the Gabonese culture.

#### Article 96

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

#### Article 97

Any conflict opposing the National Council of Communication to another public organ will be settled at the diligence of one of the parties by the Constitutional Court.

#### Article 98

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997]*

The National Council of Communication consists of nine (9) members designated as follows:

- three by the President of the Republic, including the President;
- three by the President of the Senate;
- and three by the President of the National Assembly.

Each of the authorities specified in the paragraph above, obligatorily designates two specialists in communication.

#### Article 99

The members of the National Council of Communication must have competence in the matters of communications, of public administration, of the sciences, of law, of culture or of the arts, having 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 case of death or of resignation of a member, the new member named by the authority of nomination concerned completes the mandate commenced.

#### Article 101

*[Amended by Law No. 1/97 of 22 April 1997]*

The President of the National Council of Communication is nominated for the whole duration of the mandate.

In case of temporary vacancy, the interim of [the] President is assured by the oldest Counselor.

#### 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 Articles 8, paragraph 3, 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 policy concerning raw materials [*matières premières*];
- the social and cultural policy;
- the environmental policy.

#### Article 104

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

It compiles and drafts, with the participation of the different entities which compose it for the review of the President of the Republic, of the Government and of the Parliament, the annual report [*recueil*] of forecasts [*attentes*] needs and problems of the civil society with explanations and with proposals.

#### Article 105

*[Amended by Law No. 1/94 of 18 March 1994]*

The Economic and Social Council is charged to give its opinion on all questions of economic, social or cultural character, brought to its examination by the President of the Republic, the Government, the Parliament or any other public institution.

It is obligatorily consulted on any draft of a Plan or any draft of a Program of economic, social or cultural character, as well as on any legislative provisions of fiscal, economic, social or cultural character. It can be from the outset, associated with their drafting.

The Economic and Social Council is referred to [a matter], in the name of the Government, by the Prime Minister, by demands for advice or for studies.

#### Article 106

*[Amended by Law No. 14/2000 of 11 October 2000]*

The Economic and Social Council may equally proceed with the analysis of any problem of economic or social development. It presents its conclusions to the President of the Republic, to the Government and to the Presidents of the Chambers of the Parliament.

#### Article 107

*[Amended by Law No. 14/2000 of 11 October 2000]*

The Economic and Social Council can designate one of its members, at the demand of the President of the Republic, of the Government or of the Presidents of the Chambers of the Parliament to present before these institutions the opinion of the Council on the Bills or proposals of law which have been submitted to it.

The Government and the Parliament have the obligation, when they are referred to it, to respond to the advice and reports formulated by the Economic and Social Council within a maximum time period of three months by the Government and before the end of the current session by the Parliament.

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

#### Article 108

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000; 13/2003 of 19 August 2003]*

Members of the Economic and Social Council are:



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

The duration of the mandate of the members of the Economic and Social Council is of five (5) years, renewable;

In case of death or of resignation of a member, the new member representing the concerned sector completes the mandate commenced.

The former Vice Presidents of the Republic, the former Prime Ministers and the former Presidents of the Chambers of the Parliament, are members of right in the Economic and Social Council.

#### Article 109

*[Amended by Law No. 13/2003 of 19 August 2003]*

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 specified day is not a working day.

The sessions of the Economic and Social Council are public.

#### Article 110

*[Amended by Law No. 1/94 of 18 March 1994; 14/2000 of 11 October 2000; 13/2003 of 19 August 2003]*

The President of the Economic and Social Council is appointed by decree of the President of the Republic from among the Superior Officers of the State appointed to the Economic and Social Council.

The two Vice Presidents and the other members of the Bureau are appointed by the President of the Republic on the proposal of the representatives of the unions and of the socio-professional associations or groups.

The members of the Bureau of the Council are appointed for the entire term of the mandate.

No member of the Economic and Social Council can be prosecuted, investigated or judged for the opinions expressed by him during the sessions of the Council.

#### Article 111

*[Amended by Law No. 1/94 of 18 March 1994]*

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

### **TITLE IX OF THE LOCAL COLLECTIVITIES**

#### Article 112

The local collectivities of the Republic are created by the law. They can only be modified or abolished following the opinion of the interested Councils and under the conditions established by the law.

They administer themselves freely by the Councils elected under the conditions specified by the law, notably in that which concerns the competences and their resources.

Article 112a

*[Amended by Law No. 1/94 of 18 March 1994]*

Local consultations, concerning specific problems not relevant to the domain of the law, may be organized on the initiative of either the elected Councils, or of the interested citizens, under the conditions established by the law.

Article 112b

*[Amended by Law No. 1/94 of 18 March 1994]*

The conflicts of competence between the local collectivities on the one hand, or between a local collectivity and the State on the other hand, are brought before the administrative jurisdictions, at the diligence of the responsible authorities or of the representative of the State.

The representative of the State sees to the respect of the national interests.

An organic law specifies the modalities of the application of this title.

**TITLE X**

**OF THE INTERNATIONAL TREATIES AND AGREEMENTS**

Article 113

*[Amended by Law No. 1/94 of 18 March 1994]*

The President of the Republic negotiates the international treaties and agreements and ratifies them after the vote of a law of authorization by the Parliament and the verification of their constitutionality by the Constitutional Court.

The President of the Republic and the Presidents of the Chambers of the Parliament are informed of any negotiation leading to the conclusion of an international agreement not submitted to ratification.

Article 114

The peace treaties, the commercial treaties, the treaties concerning international organization, the treaties which commit the finances of the State, [and] those which modify provisions of legislative nature [and] those which concern the status of persons can only be approved and ratified by virtue of a law.

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

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

**TITLE XI**

**OF THE AGREEMENTS OF COOPERATION AND OF ASSOCIATION**

Article 115

The Gabonese Republic may sovereignly conclude agreements of cooperation or of association with other States. She [Gabon] accepts to create with them international organs of common management, coordination and free cooperation.

**TITLE XII**  
**OF THE REVISION OF THE CONSTITUTION**

Article 116

*[Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997;  
13/2003 of 19 August 2003]*

The initiative of revision belongs concurrently to the President of the Republic, the Council of Ministers being heard, and to the members of Parliament.

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

Any Bill or any proposal of revision of the Constitution as well as any amendment concerning it is submitted, for opinion, to the Constitutional Court prior to the referendum or the meeting of the Parliament in congress.

The revision is adopted either by way of referendum, or by the parliamentary method [voie].

In the first case, the Bill or the proposal of revision of the Constitution is submitted to referendum by the President of the Republic in accordance with the provisions of Article 18 above.

In the second case, the Bill or the proposal of revision must be voted respectively by the National Assembly and by the State in identical terms before being submitted for adoption by the Parliament meeting in congress.

The adoption of any Bill or of any proposal of revision of the Constitution by the parliamentary method requires the presence of at least two-thirds of the members of the two Chambers together. The Presidency of the Congress is assured by the President of the National Assembly. The Bureau of the Congress is that of the National Assembly.

A qualified majority of two-thirds of the suffrage expressed is required for the adoption of the Bill or of the proposal of the revision of the Constitution.

The revision of the Constitution cannot be initiated or achieved, in case of the interim of the Presidency of the Republic, recourse to the emergency powers of Article 26 above, or [in case] of infringement of the territorial integrity, as well as during the period which separates the proclamation of the results of the presidential election and the beginning of a presidential mandate.

Article 117

The Republican form of the State, as well as the pluralist character of the democracy are intangible and cannot be the subject of any revision.

**TITLE XIII**  
**OF THE TRANSITORY AND FINAL PROVISIONS**

Article 118

*[Amended by Law No. 1/94 of 18 March 1994; 18/95 of 29 September 1995;  
1/97 of 22 April 1997]*

The provisions concerning the duration of the mandate of the President of the Republic enter into force on the first presidential election following the promulgation of this law.

The renewal of the Constitutional Court, [and] of the National Council of the Communication shall occur at the normal term of their current mandate from the time of promulgation of this law.

The provisions concerning the duration of the mandate of the Bureaus of the Chambers of the Parliament, [and of] the duration of the sessions and the administrative and financial autonomy of the Chambers of Parliament will enter into force on the promulgation of this law.

Article 119

*[Amended by Law No. 1/97 of 22 April 1997]*

This law which abrogates all previous provisions will be registered, [and] published in the Official Gazette and executed as law of the Republic.

Article 120

This Constitution will be published in the Official Gazette and executed as law of the Republic.

Done at Libreville, 26 March 1991

by the President of the Republic, Chief 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 Seal

Michel Anchouey

Modified by Law No. 1/94 of 18 March 1994

[Signatures]

Modified by Law No. 18/95 of 29 September 1995

[Signatures]

Modified by Law No. 1/97 of 22 April 1997

[Signatures]

Modified by Law No. 14/2000 of 11 October 2000

[Signatures]

Modified by Law No. 13/2003 of 19 August 2003

[Signatures]