

# *World Constitutions Illustrated*

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## *Republic of Guinea*

**Fundamental Law**  
**23 December 1990**  
**As amended to 15 May 2002**

*Translated by*  
J.J. Ruchti

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The translation of the amendments of 1996 and 2001/2 are taken from the texts appended to the original text of 1990 as made available by the Government of the Republic of Guinea: <http://www.guinee.gov.gn> [consulted October 2009].

The amendment of 1996 concerns Art. 55; those of 2001/2 concern Arts. 1, 8, 24, 26, 88 and 89.

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# FUNDAMENTAL LAW

23 December 1990

## PREAMBLE

By their vote of 28 September 1958, the People of Guinea opted for liberty and constituted, [on] 2 October 1958, a sovereign State: THE REPUBLIC OF GUINEA.

Drawing from the lessons of its past and of the political change intervening [on] 3 April 1984,

THE PEOPLE OF GUINEA,

### **Proclaim:**

- The equality and the solidarity of all nationals without distinction of race, of ethnicity, of sex, of origin, of religion and of opinion.
- Its adherence to the ideals and principles, rights and duties established in the Charter of the Organization of the United Nations, the Universal Declaration of the Rights of Man, the Charter of the Organization of African Unity and the African Charter of the Rights of Man and of Peoples.

**Affirm** solemnly their fundamental opposition to any regime founded on dictatorship, injustice, corruption, nepotism and regionalism.

### **Reaffirm:**

- Their willingness to realize within national unity and reconciliation, a State founded on the primacy of the law and the respect for the law democratically established;
- Their willingness to establish relations of amity and of cooperation with all peoples of the world on the basis of principles of equality, of respect for national sovereignty, for territorial integrity and for the reciprocal interest;
- Their attachment to the cause of African Unity, [and] of the sub-regional integration of the continent.

Free to determine their institutions, the people of Guinea adopt this **Fundamental Law**.

## TITLE I

### OF SOVEREIGNTY AND OF THE STATE

#### Article 1

*[Amended by Decree D/2002/49/PRG/SGG of 15 May 2002 promulgating the Constitutional Law adopted by the referendum of 11 November 2001]*

Guinea is a unitary, indivisible, secular, democratic and social Republic. It assures equality before the law of all citizens without distinction of origin, of race, of ethnicity, of sex, of religion and of opinion. It respects all beliefs.

The official language is French. The State assures the promotion of the cultures and of the languages of the people of Guinea.

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

The national anthem is “*LIBERTÉ*” [Liberty].”

The motto of the Republic is “*TRAVAIL – JUSTICE – SOLIDARITÉ*” [Work – Justice – Solidarity].

The Seal and the Coat-of-Arms of the Republic are codified by the regulatory way [*voie*].

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

#### Article 2

National sovereignty belongs to the people who exercise it by their elected representatives and by way of referendum.

No fraction of the people, nor any individual may arrogate the exercise of it. Suffrage is universal, direct, equal and secret.

Within the conditions determined by the law, all Guinean citizens of majority and of either sex, enjoying their civil and political rights[,] are electors.

#### Article 3

The political parties participate in the political education of the citizens and in the expression of suffrage. They alone present candidates to the national elections.

They must be implanted on the whole of the national territory.

They must not identify themselves with a race, an ethnicity, a religion or a territory.

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

An organic law determines the conditions within which political parties constitute themselves and exercise their activities. It may equally establish, for a given time, the maximum number of parties capable of constituting themselves. It makes precise the conditions within which a party which disregards the provisions of the preceding paragraphs is no longer considered as legally constituted.

#### Article 4

The law punishes whoever [that] by an act of racial, ethnic or religious discrimination, or by an act of regionalist propaganda, involves a grave infringement to the national unity, to the security of the State, to the territorial integrity of the Republic or to the democratic functioning of the institutions.

### TITLE II

#### OF THE FUNDAMENTAL FREEDOMS, DUTIES AND RIGHTS

#### Article 5

The person and the dignity of man are sacred. The State has the duty to respect them and to protect them.

The rights and freedoms enumerated below are inviolable, inalienable and imprescriptible. They underlie [*fondent*] all human society, and guarantee peace and justice in the world.

#### Article 6

Man has the right to the free development of his personality.

He has the right to life and to physical integrity. No one may be the object of tortures, or of cruel, inhuman or degrading punishments [*peines*] or treatments.

#### Article 7

He is free to believe, to think and to profess his religious faith, his political or philosophical opinions.

He is free to express, to manifest and to diffuse his ideas and opinions by speech, writing and image.

He is free to instruct and to inform himself from sources available to all.

#### Article 8

*[Amended by Decree D/2002/49/PRG/SGG of 15 May 2002 promulgating the Constitutional Law adopted by the referendum of 11 November 2001]*

All human beings are equal before the law. Men and women have the same rights. No one may be privileged or disadvantaged by reason of their sex, of their birth, of their race, of their ethnicity, of their language, [or] of their political, philosophical or religious beliefs and opinions.

#### Article 9

One may only be arrested, detained or condemned for the motives and within the forms provided for by the law. All have the imprescriptible right to present themselves before a judge to assert their rights against the State and its agents [*preposés*].

All have the right to a just and equitable process, in which the right to defend oneself is guaranteed.

The law establishes the penalties [*peines*] necessary and proportionate to the faults which justified them.

#### Article 10

All citizens have the right to manifestation and to march.

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

All citizens have the right to establish themselves and to circulate on the territory of the Republic, to enter it and to leave it freely.

#### Article 11

Whoever is persecuted for reason of their political, philosophical or religious opinions, of their race, of their ethnicity, [or] of their intellectual, scientific or cultural activities, in the defense of liberty, has the right of asylum on the territory of the Republic.

#### Article 12

The domicile is inviolable. It may only be infringed in the case of grave and imminent peril, to parry [against] a common danger or to protect the lives of persons. All other infringements, all searches may only be ordered by the judge or by the authority that the law designates in the forms prescribed by it.

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

#### Article 13

The right to private property is guaranteed. Nothing may be expropriated if it is not in the legally declared interest of all, and under reserve of a just and prior indemnity.

#### Article 14

The free exercise of beliefs [*cultes*] is guaranteed. The religious institutions and [religious] communities create themselves and administer themselves freely.

They are not subject to the administration [*tutelle/guardianship*] of the State.

#### Article 15

Man has the right to health and physical well-being. The State has the duty to promote them, and to fight against epidemics and social plagues.

#### Article 16

Marriage and the family which constitute the natural foundation of life in society, are protected and promoted by the State.

Parents have the right and the duty to assure the education and the physical and moral health of their children. Children must care and [give] assistance to their parents.

#### Article 17

Youth must be particularly protected against exploitation and moral abandon.

Aged and handicapped persons benefit from the assistance and from the protection of society.

#### Article 18

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

No one may be disadvantaged [*lésé*] in their work on account of their sex, of their race, of their ethnicity or of their opinions.

Each has the right to belong to the trade union of their choice, and to defend their rights by syndical action. Each worker has the right to participate through the intermediary of their delegates in the determination of the conditions of work.

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

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

#### Article 19

The people of Guinea determine freely and sovereignly their institutions and the economic and social organization of the Nation.

They have an imprescriptible right concerning its resources [*richesses*]. These must profit all Guineans in an equitable manner.

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

They have right to resist oppression.

#### Article 20

Each citizen has the duty to conform to the Fundamental Law, to the laws and to the regulations.

Each citizen has the duty to participate in the elections, to promote tolerance, the values of democracy, [and] to be loyal towards the nation.

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

Each citizen must contribute, within the measure of their means, to taxes and must fulfill their social obligations within the conditions that the law determines.

Each citizen has the sacred duty to defend the country.

#### Article 21

The State must promote the well-being of the citizens.

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

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

It assures the continuity of the institutions and of the public services, within respect for the Fundamental Law.

It guarantees equal access to the public employments.

It favors the unity of the nation and of African. It cooperates with other States to consolidate their independence, peace, mutual respect and amity between peoples.

It assures the education of youth, which is obligatory. It creates the conditions and the institutions permitting each child to develop themselves [*se former*]. It guarantees the freedom of teaching, and controls private schools.

#### Article 22

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

It may not establish limits on these freedoms and on these rights except those which are indispensable to maintain the public order and democracy.

Groups of which the goal or the activity is contrary to the laws or that manifestly trouble the public order can be dissolved.

#### Article 23

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

### TITLE III

#### OF THE PRESIDENT OF THE REPUBLIC

#### Article 24

*[Amended by Decree D/2002/49/PRG/SGG of 15 May 2002 promulgating the Constitutional Law adopted by the referendum of 11 November 2001]*

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

The duration of his mandate is of seven years, renewable.

#### Article 25

The ballot for the election of the President of the Republic takes place forty-five days at most and thirty days at least before the date of the expiration of the mandate of the President of the Republic in [his] functions.

If it takes place to proceed to a second round of [the] ballot, this is established as the fourteenth day after the first round.

The President of the Republic establishes the date of the ballot at least sixty days before such.

#### Article 26

*[Amended by Decree D/2002/49/PRG/SGG of 15 May 2002 promulgating the Constitutional Law adopted by the referendum of 11 November 2001]*

Each candidate to the Presidency of the Republic must be of Guinean nationality, enjoying their civil and political rights and be forty (40) years of age at least.

The candidatures are deposited with the office [*greffe*] of the Supreme Court forty days at least and sixty days at most before the date of the ballot. No candidature is receivable if it is not presented by a political party legally constituted. Each party may only present one sole candidature.

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

#### Article 27

In case of death or permanent impediment, declared by the Supreme Court, of a candidate figuring on the list provided for in Article 26, the Supreme Court decides if the reopening of the time periods during which new candidatures may be deposited[,] should take place. In this case a new date of the ballot is established within the conditions provided for in Article 25.

#### Article 28

The electoral campaign is opened thirty days before the ballot and closes on the night before it at 0 hours. In case of [a] second round, the electoral campaign is opened the day after the proclamation of the results of the first round and closes the night before the second ballot at 0 hours.

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

#### Article 29

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

In the case where, at the close of the first round, no candidate has attained this majority, it proceeds to a second round of [the] ballot within the conditions provided for in Article 25. Only the two candidates, the case arising after withdrawal of more favored candidates, who are found to have received the greater number of votes at the first round[,] may present themselves.

The Supreme Court sees to the regularity of the ballot.

#### Article 30

If some dispute relative to the regularity of the electoral operations has not been deposited by one of the candidates with the office of the Supreme Court within the eight days which follow the day when the first complete total of the results has been rendered public, the Supreme Court proclaims the President of the Republic elected.

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

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



#### Article 31

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

In the case where, following the annulment of an election, one of the candidates has not been proclaimed elected on that date, the President in exercise remains in [his] function until the proclamation of the results.

In the case of death or of definitive impediment of the President of the Republic elected before his entry into [his] function, it proceeds to new elections within the time period of sixty days. The President in exercise remains in [his] function until the proclamation of the results.

By derogation of Article 34, in case of death or of definitive impediment of the President in exercise before the entry into [his] function of the President elected, he enters immediately into [the] function.

The President of the Republic is installed in his function after having taken oath before the Supreme Court. By this oath, he commits himself to scrupulously respect and enforce the provisions of the Fundamental Law and of the laws, to defend the constitutional institutions, the integrity of the territory and the national independence.

#### Article 32

The President of the Republic is protected against offenses, injuries and calumnies within the conditions that the law determines.

#### Article 33

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

#### Article 34

In case of vacancy of the function of President of the Republic consecutive to death or to the resignation of the President of the Republic, or to any other cause of definitive impediment, the substitution is assured by the President of the National Assembly or, in case of the impediment of him, by one of the Vice Presidents of the National Assembly by order of precedence.

The vacancy is declared by the Supreme Court, referred to [the matter] by the President of the National Assembly or, in case of the impediment of him, by one of his Vice Presidents.

The maximum time period of the substitution is sixty days. The ballot for the election of the President of the Republic takes place, save the case of force majeure declared by the Supreme Court, thirty-five days at least and fifty days at most after the opening of the vacancy.

#### Article 35

The substitution of the President of the Republic extends to all the functions of him, save the right of recourse to referendum, to pronounce the dissolution of the National Assembly, to take the initiative of revision of the Fundamental Law, [and] to exercise the right of pardon.

#### Article 36

The former Presidents of the Republic are given rank [in] protocol immediately after the President of the Republic, in the order of the seniority of their mandate, and before the President of the National Assembly.

They sit of plain right on the Economic and Social Council.

They have benefit of material advantages and of protection within the conditions that an organic law determines.

#### Article 37

The President of the Republic sees to respect for the Fundamental Law. He assures the regular functioning of the public powers and the continuity of the State. He determines and conducts the policy of the nation.

#### Article 38

The President of the Republic assures the execution of laws and has the regulatory power at his disposition, which he exercises by decree.

#### Article 39

The President of the Republic appoints the Ministers who assist him and who are only responsible before him. He can dismiss them.

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

#### Article 40

The President of the Republic appoints to all the civil employments. He directs the Administration.

#### Article 41

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

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

He is the head of the Armies. He appoints to all the military employments.

#### Article 42

The President of the Republic accredits the ambassadors and the envoys extraordinary to foreign powers.

The ambassadors and envoys extraordinary of foreign powers are accredited to him.

#### Article 43

The President of the Republic exercises the power of pardon.

#### Article 44

The President of the Republic can address messages to the nation.

He does not participate in the debates of the National Assembly. When he addresses a message to it, the message is read by a Minister.

#### Article 45

The President of the Republic can, after having consulted the President of the National Assembly, submit to referendum any bill of law concerning the organization of the public powers, concerning the fundamental freedoms and rights or the economic and social action of the State, or tending to authorize the ratification of a treaty.

He must, if the National Assembly so demands by a resolution adopted with the majority of two-thirds of the members who compose it, submit to referendum any

proposal of law concerning the organization of the public powers or concerning the fundamental freedoms and rights.

Before convoking the electors by decree, the President of the Republic receives the opinion of the Supreme Court concerning the conformity of the bill or of the proposal with the Fundamental Law. In case of nonconformity, it may not proceed to referendum.

The Supreme Court sees to the regularity of the operations of [the] referendum. When the referendum has concluded with the adoption of the bill or of the proposal, the one or the other is promulgated within the conditions provided for by Article 62.

#### TITLE IV OF THE NATIONAL ASSEMBLY

##### Article 46

The representative assembly of the people of Guinea has the name of [the] National Assembly. Its members have the title of Deputies to the National Assembly.

##### Article 47

The Deputies to the National Assembly are elected by universal direct suffrage.

The duration of their mandate is of five years, save case of dissolution.

They may be renewed.

##### Article 48

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

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

##### Article 49

The Supreme Court sees to the regularity of the ballot and of the electoral campaign which precedes it. It receives and judges resulting [*éventuelle*] disputes.

##### Article 50

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

Two-thirds of the Deputies are elected by ballot by national list, with proportional representation. The seats not attributed by the national quotient are given to [the] strongest remaining.

##### Article 51

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

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

##### Article 52

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

No deputy[,] during the duration of the sessions, may be prosecuted or arrested, in a penal matter, without the authorization of the National Assembly, save in the case of flagrante delicto.

No deputy, out of session, may be arrested or detained without the authorization of the Bureau of the National Assembly, save in the case of flagrante delicto, of prosecutions authorized by the Assembly or by definitive condemnation.

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

#### Article 53

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

#### Article 54

The regulations of the National Assembly are established by an organic law which determines:

- the composition and the rules of functioning of the Bureau of the Assembly;
- the number, the mode of designation, the composition and the competence of permanent commissions;
- the modalities of creation of temporary special commissions;
- the organization of the administrative offices placed under the authority of the President of the Assembly;
- the rules of conducting [*déroulement*] of the debates, of speaking, of [the] vote and the disciplinary regime of the Deputies.
- in a general fashion, all rules having for [their] object the functioning of the National Assembly within the framework of the competences that the Fundamental Law attributes to it.

#### Article 55

*[Amended by Law No. 96/21/AN of October 1996, as published in the Journal Officiel No. 20 of 25 October 1996]*

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

The first session is opened [on] 5 April, [and] its duration may not exceed forty-five (45) days.

The second session is opened [on] 25 September, [and] its duration may not exceed seventy-five (75) days.

If 5 April or 25 September is a holiday, the opening of the session will take place [on] the first working day which follows.

The law of finance of the year is examined in the course of the second ordinary session of the year which precedes.

#### Article 56

The National Assembly meets in extraordinary session either at the initiative of the President of the Republic, or at the demand of the majority of the members who compose it, on a specific agenda.

The extraordinary session is closed when the National Assembly has exhausted the agenda for which it was convoked. The duration of the session may not surpass fifteen days.

The Deputies may not demand a new extraordinary session before the expiration of the month which follows the closing of a session.

Save for the cases in which the National Assembly meets of plain right, the extraordinary sessions are opened and closed by decree.

#### Article 57

Any imperative mandate is null.

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

#### Article 58

The sessions of the National Assembly are public. However, it can by a vote of the majority of the members who compose it, decide to hold closed sessions.

The complete record of the debates is published in the *Journal Officiel* [Official Gazette].

### TITLE V

#### OF THE RELATIONS BETWEEN THE PRESIDENT OF THE REPUBLIC AND THE NATIONAL ASSEMBLY

#### Article 59

Under reserve of the provisions of Article 45, the National Assembly alone votes the law.

The law establishes the rules concerning:

- the guarantees of the fundamental freedoms and rights, the conditions within which they are exercised and the limitations which may be imposed;
- the civic rights, nationality, the state and the capacity of persons, the matrimonial regimes, inheritances and gifts;
- the constraints imposed for the national defense on citizens on their persons and their assets;
- the determination of infractions, the penalties which are applicable to them, the penal procedure, amnesty, the creation and the composition of orders of jurisdiction and the status of the magistrates;
- the basis, the rate, and the modalities of collection and of control of taxes of all kinds, and of obligatory contributions;
- the electoral regime of the National Assembly in all that is not indicated by the Fundamental Law, the electoral regime of the elected councils of the territorial collectivities;
- the fundamental guarantees accorded to the civil and military functionaries of the State;
- the regime of issuing of the currency;
- the creation of categories of public establishments;
- expropriation, the nationalization or the privatization of enterprises.

The law determines the fundamental principles:

- of the general organization of the national defense and of the maintaining of the public order;

- of the free administration of the territorial collectivities, of their competences and of their resources;
- of teaching;
- of the regime of ownership, of real rights and of civil and commercial obligations;
- of the right to work, of the syndical right and of social protection;
- of cultural development and of the protection of the patrimony and of the environment;
- of the laws of finance determining each year the total of the resources and of the charges of the State, within the conditions and under the reserve provided for by an organic law;
- the planning laws [*lois de plan*] establishing the pluri-annual orientations of development of the nation and the engagements of the State.
- the program laws [*lois de programme*] determining by sector the objectives of economic and social action of the State.

#### Article 60

The matters other than those which are of the domain of the law have a regulatory character.

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

#### Article 61

The National Assembly votes the bills of law of finance within the conditions provided for by an organic law.

The bill of law of finance is deposited with the Bureau of the National Assembly at the latest the day of the opening of the second ordinary session.

The National Assembly has at its disposition sixty days at most to vote the bill.

If for reasons of force majeure, the President of the Republic was not able to deposit it in a timely fashion, the ordinary session is followed immediately of plain right by an extraordinary session of which the duration is at most equal to the time necessary to cover the time period from the deposit of the bill of law until the sixtieth day following.

If, at the expiration of these time periods, the bill of the law of finance has not been adopted, it may be put into force by decree, taking into account the amendments voted by the National Assembly and accepted by the President of the Republic.

If, taking into account the procedure provided for above, the law of finance of the year cannot be put into force before the debut of the fiscal year, the President of the Republic demands of urgency of the National Assembly the authority to continue to collect taxes. This is pronounced within two days. The President of the Republic is authorized to re-conduct by decree the budget of functioning of the preceding year.

The Supreme Court assures the control a posteriori of the execution of laws of finance. It makes appropriate reports concerning it to the National Assembly.

#### Article 62

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

The President of the Republic promulgates the law within ten days. The time period runs eight full days after the transmission of the law adopted.

#### Article 63

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

The law may only be voted on second reading if two-thirds of the members composing the National Assembly declare for its adoption. Its inscription on the agenda is of priority if the majority of the members composing the National Assembly so demand.

#### Article 64

Within the eight full days which follow the adoption of a law, the President of the Republic or one-tenth of the Deputies at least can refer [the matter] to the Supreme Court by recourse with a view [*visant*] to have the conformity of the law with the Fundamental Law subject to control [*faire contrôler*].

The time period of promulgation is then suspended.

The Supreme Court decides within the thirty days that follow its referral to [the matter] or, if the President of the Republic makes the demand for it, in eight days. The order of the Supreme Court is published in the *Journal Officiel*.

A provision of a law declared nonconforming to the Fundamental Law may not be promulgated nor applied. The order of the Supreme Court is imposed on all.

The time period of promulgation runs counting from the publication of the order of the Supreme Court which declares the law conforming to the Fundamental Law.

#### Article 65

In the case of non-promulgation of a law by the President of the Republic within the time period established, the law enters into force.

#### Article 66

The National Assembly by a law can enable the President of the Republic to take the measures that normally arise within the domain of the law, for a given time period and [for] objectives that it makes precise.

Within the limits of time and of competence established by the enabling law, the President of the Republic takes the ordinances which enter into force on their publication, but become lapsed if a bill of law of ratification is not deposited before the National Assembly before the date established in the enabling law.

After this last date, they may only be modified by the law. They retain[,] nevertheless[,] regulatory value until their ratification.

They may be amended at the time of the vote of the law of ratification.

#### Article 67

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

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

The National Assembly may not enable the President of the Republic to take by way of ordinance measures which arise within the organic law.

#### Article 68

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

#### Article 69

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

The proposals and amendments formulated by the Deputies are not receivable if they do not arise within the domain of the law, or if they enter within competences delegated to the President of the Republic in application of Article 66 during the duration of this delegation.

They are not receivable when their adoption would have for a consequence either a diminution of public resources, or the creation or aggravation of a public charge if compensatory receipts are not provided for.

#### Article 70

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

#### Article 71

The National Assembly establishes its agenda.

However, the President of the Republic can demand the inscription, by priority, on the agenda, of a bill or of a proposal of law or of a declaration of general policy. This inscription is of right.

The time period to examine the texts inscribed on the agenda by priority may not exceed half of the time period of the ordinary session.

#### Article 72

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

They may be assisted by collaborators of their choice.

#### Article 73

The Deputies can pose to the Ministers, who are held to respond, written questions and oral questions with or without debate. The responses given are not followed by [a] vote. They are published in the *Journal Officiel*.

One sitting per week is reserved in the course of each extraordinary session, to oral questions without debate.

The National Assembly can designate from within [it] commissions of inquiry. The regulations of the Assembly determine the powers of these commissions.

They are created by the law, which defines the composition of them, the functioning and the objective, and which makes their powers precise.

#### Article 74

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



The President of the Republic can take, by ordinance, any measure necessary for the defense of the integrity of the territory and for the reestablishment or for the maintenance of the public order.

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

The decree proclaiming the state of siege or the state of urgency ceases to be in force after twelve days, unless the National Assembly, referred to [the matter] by the President of the Republic authorizes the extension for a time period which it will establish.

The ordinances taken in application of the state of siege and of the state of urgency cease to be in force at the end of these.

#### Article 75

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

#### Article 76

In case of persistent disagreement between the President of the Republic and the National Assembly concerning fundamental questions, the President of the Republic can, after having consulted the President of the National Assembly, pronounce the dissolution of it.

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

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

If these return to the National Assembly a majority of Deputies favorable to the position adopted by the former majority on the question which provoked the dissolution, the President of the Republic must resign.

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

### TITLE VI

#### OF TREATIES AND INTERNATIONAL AGREEMENTS

#### Article 77

The President of the Republic negotiates the international engagements.

The peace treaties, the commercial treaties, the treaties or agreements relative to international organization, those which engage the finances of the State, those which modify the provisions of legislative nature, those which are relative to the state of persons, those which involve cession, exchange or adjunction of territory, may only be ratified or approved by a law.

No cession, no exchange, no adjunction of territory may take place without the consent of the populations concerned.

#### Article 78

If the Supreme Court, referred to [the matter] by the President of the Republic or a Deputy has declared that an international engagement contains a clause contrary to the Fundamental Law, the authorization to ratify it or to approve it may not intervene until after the revision of the Fundamental Law.

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

#### Article 79

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

### TITLE VII

#### OF THE JUDICIAL POWER

#### Article 80

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

It is exercised exclusively by the Courts and Tribunals.

#### Article 81

The magistrates are only submitted, in the exercise of their functions, to the authority of the law. The presiding magistrates are irremovable within the conditions determined by the law.

The magistrates are appointed by the President of the Republic, those presiding [magistrates] after [the] opinion of the Superior Council of the Magistrature.

The status, the career, [and] the guarantees of independence of the magistrates are established by an organic law.

#### Article 82

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

When seated as a disciplinary body [*formation*], the Superior Council of the Magistrature is presided over by the President of the Supreme Court.

#### Article 83

The Supreme Court takes cognizance of the constitutionality of the laws and of the international engagements, within the conditions provided for in Articles 64, 67 and 78.

It takes cognizance in first and last resort of the recourses formed against the acts of the President of the Republic taken in application of Articles 38, 60 and 74, as well as the recourses formed against the ordinances taken in application of Article 66, under reserve of their ratification.

It takes cognizance in first and last resort of the recourses formed against the elections to the National Assembly and to the local assemblies.

It takes cognizance of the petitions [*pourvois*] in cassation.

The other competences of the Supreme Court, not provided for by the Fundamental Law and the procedure to be followed before it are determined by an organic law.

#### Article 84

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

Save the case of flagrante delicto, the magistrates of the Supreme Court may only be prosecuted, arrested, detained, or judged in penal matters with the prior authorization of the general assembly of the Supreme Court. This attributes competence to the jurisdiction which it determines.

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

## TITLE VIII

### OF THE THE HIGH COURT OF JUSTICE

#### Article 85

The High Court of Justice is composed of members elected by the National Assembly, from within [it], at the debut of each legislature.

It is presided over by a magistrate elected by the general assembly of the Supreme Court.

An organic law establishes the number of members and the organization of the High Court of Justice, as well as rules of its functioning and the procedure to be followed before it.

#### Article 86

The President of the Republic is only responsible for the acts accomplished in the exercise of his functions in [the] case of high treason.

He may only be impeached by the National Assembly deciding by a vote in secret ballot with the majority of three-fifths of the members that compose it. He is judged by the High Court of Justice. It may decide when the President of the Republic is impeached, [and] that the President of the National Assembly exercises his substitution until the order [*arrêt*] has been rendered.

The Ministers are penally responsible for the acts accomplished within the exercise of their functions and qualified as crimes or as misdemeanors at the moment when they were committed. The procedure defined above is applicable to them.

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

## TITLE IX

### OF THE ECONOMIC AND SOCIAL COUNCIL

#### Article 87

The Economic and Social Council gives its opinion on the questions which are sent to it by the President of the Republic or by the National Assembly.

It is competent to examine bills or proposals of law as well as the bills of decree of economic and social character which are submitted to it[,] with the exclusion of the laws of finance.

It is obligatorily consulted concerning the bills of planning laws and program [laws] of an economic character.

It can, on its own initiative and in [the] form of [a] recommendation, direct the attention of the President of the Republic and of the National Assembly concerning reforms of an economic or social character which appear to it [as] conforming to or contrary to the general interest.

On the demand of the President of the Republic or the National Assembly, it designates one of its members to present before the commissions of the National Assembly, the opinions of the Council on the bills or the proposals of law which have been submitted to it.

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

## TITLE X

### OF THE TERRITORIAL COLLECTIVITIES

#### Article 88

*[Amended by Decree D/2002/49/PRG/SGG of 15 May 2002 promulgating the Constitutional Law adopted by the referendum of 11 November 2001]*

The territorial organization of the Republic is constituted by the Territorial Circumscriptions and the Local Collectivities. The Territorial Circumscriptions are the Regions, the Prefectures, the Quarters and the Districts. The Local Collectivities are the Urban Communes and the Rural Communities of Development. The creation of Territorial Circumscriptions, their reorganization and their functioning arise within the domain of the law.

#### Article 89

*[Amended by Decree D/2002/49/PRG/SGG of 15 May 2002 promulgating the Constitutional Law adopted by the referendum of 11 November 2001]*

The Territorial Circumscriptions are administered by a representative of the State assisted by a deliberative organ. The territorial collectivities administer themselves freely by elected councils, under the control of a delegate of the State who has responsibility concerning the national interests and of the respect for the laws.

#### Article 90

The law organizes decentralization by the transfer of competences, of resources and means to the territorial collectivities.

## TITLE XI

### OF THE REVISION OF THE FUNDAMENTAL LAW

#### Article 91

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

The bill or the proposal of revision adopted by the National Assembly only becomes definitive after having been approved by referendum.

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

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

The republican form of government of the State, the principle of secularity and the principle of separation of powers may not be made the object of revision.

## TITLE XII

### TRANSITORY PROVISIONS

#### Article 92

It will proceed to the elections provided for in Articles 24 and 47 at the time of a transitory period not exceeding five years counting from the adoption of this Fundamental Law by the People of Guinea by way of referendum.

#### Article 93

While awaiting the entry into force of this Fundamental Law, the *Conseil Transitoire de Redressement National* [Transitional Council of National Recovery] replaces the *Comité Militaire de Redressement National* [National Military Committee of National Recovery] (CMRN) in its attributions.

Under this title it is, notably, invested with the legislative power.

An ordinance determines the composition, the organization, the rules of functioning and the competences of the CTRN (*Conseil Transitoire de Redressement National*).

#### Article 94

The laws necessary to put the institutions in place and, until this implementation, for the functioning of the public powers, are adopted by the Transitional Council of National Recovery and promulgated by the President of the Republic within the time period established in Article 62.

During this time period, the Transitional Council of National Recovery can equally take in all matters the measures which it judges necessary for the life of the Nation, for the protection of the citizens or for the safeguarding of the freedoms.

#### Article 95

The provisions of Article 3 enter into force one year before the date established, in application of Article 92 for the elections. The number of political parties susceptible of being constituted is limited to two until the intervention of an organic law modifying this number.

The provisions of Articles 64, 67 paragraph 2, 78 and 83 enter into force with the installation of the Supreme Court. Those relative to the Superior Council of the Magistrature and to the Economic and Social Council enter into force with the installation of these institutions. These installations intervene on dates established by the Transitional Council of National Recovery and, in any case, before the end of the transitory period.

#### Article 96

The other provisions of this Fundamental Law enter into force one year counting from its adoption.

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