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*Edited by*  
Jefri Jay Ruchti

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## *Niger*

**Constitution of the III<sup>rd</sup> Republic**  
**26 December 1992**

*Translated by*  
Maria del Carmen Gress & J.J. Ruchti

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# CONSTITUTION OF THE III<sup>rd</sup> REPUBLIC

26 December 1992

## PREAMBLE

Following the National Sovereign Conference that met from 29 July to 3 November 1991, the totality of the living forces of the Nation, consolidating the achievements of the Republic and of the national independence proclaimed, respectively [on] 18 December 1958, and 3 August 1960;

WE, THE SOVEREIGN NIGERIEN PEOPLE

- affirm our firm will to build a State of Law, and a unified and prosperous Nation;
- proclaim our attachment to the principles of pluralist democracy and of the Rights of Man as defined by the Universal Declaration of the Rights of Man of 1948, the African Charter of the Rights of Man and of Peoples of 1981 and as they are guaranteed by this Constitution;
- affirm our attachment to African Unity and our engagement to make every effort to realize regional and sub-regional integration;
- express our willingness to cooperate in amity and equality with all peoples [who] love [*épris de*] peace, justice and freedom;
- solemnly adopt this Constitution, Supreme Law of the State to which we swear loyalty, fidelity and respect.

## TITLE I

### OF THE STATE AND OF SOVEREIGNTY

#### Article 1

The State of Niger is an independent and sovereign Republic.

All infringement [*atteinte*] of the republican form of the State is a crime of high treason punished as such by the law.

The capital of the Republic of Niger is *Niamey*.

The national emblem is the tricolored flag composed of three (3) horizontal, rectangular and equal bands of which the colors are disposed from top to bottom in the following order: orange, white and green. The median white band has in its middle a disk of orange color.

The hymn of the Republic is "*La Nigérienne*" [the Nigerien].

The motto of the Republic is "Fraternité, Travail, Progrès" [Fraternity, Work, Progress].

The seal of the State, with a diameter of forty millimeters, is composed of a shield bearing a sun accosted to dexter by a lance in pale [*en pal*] charged with two Tuareg spades saltire [*en sautoir*], and to sinister by three ears of millet, one in pale and two placed saltire, accompanied at the point [*en pointe*] by a head of a zebu. Highlighted [*en exergue*], are placed the following inscriptions:

- in the superior part: "République du Niger" [Republic of Niger];
- in the inferior part: "Fraternité, Travail, Progrès" [Fraternity, Work, Progress].

The Arms of the Republic are composed of a shield of sinople, with a sun [with] rays of gold [*soleil rayonnant d'or*], accosted to dexter by a lance in pale charged with two Tuareg spades saltire, and to sinister of three millet ears, one in pale [*en*

*pal*] and two placed saltire, accompanied at the point [*en pointe*] by a head of a zebu, all gold.

This shield is superimposed on a trophy formed of four flags of the Republic of Niger. The inscription “République du Niger” [Republic of Niger] is placed below.

#### Article 2

The attributes of the Republic are reserved for the use of the public powers.

All illegal use for private purposes, [and] all profanation of these attributes are punished by the law.

#### Article 3

All communities composing the Nigerien Nation enjoy the freedom to use their languages[,] respecting those of others.

The law establishes the modalities of promotion and of making official the national languages.

The official language is French.

#### Article 4

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

Its fundamental principles are:

- the government of the people, by the people and for the people;
- the separation of the State and of religion.

#### Article 5

National sovereignty belongs to the People.

No fraction of the People and no individual may arrogate its exercise.

In the exercise of the power of the State, personal power, regionalism, ethnocentrism, the clan spirit, nepotism, the feudal spirit, illicit enrichment, favoritism, corruption and influence-trafficking are banished and punished by the law.

#### Article 6

The People have the right and the duty of resistance, by civil disobedience, against any oppressive regime. The regime that deliberately violates the provisions of this Constitution, is oppressive.

The People have the right to defend by civil disobedience, the democratic regime established against any coup d'etat.

Civil disobedience is exercised in a peaceful manner and in last recourse.

#### Article 7

The People exercise their sovereignty through their elected representatives and by way [*voie*] of referendum. The conditions of recourse to the referendum are determined by the law.

The Supreme Court sees to the regularity of the voting operations and proclaims the results of them.

#### Article 8

Suffrage is direct or indirect and is exercised within the conditions provided for by the law.

Direct suffrage is always universal, free, equal and secret.

Nigeriens of the two sexes, aged eighteen (18) years on the day of the ballot, or emancipated minors, enjoying their civil and political rights, are electors, under the conditions determined by the law.

#### Article 9

The Republic of Niger is a State of Law [*Etat de droit*].

It assures to all equality before the law without distinction of sex, [or] of social, racial, ethnic or religious origin.

It respects and protects all beliefs. No religion, no belief may arrogate the political power or interfere in the affairs of State.

All particularist propaganda of a regionalist, racial or ethnic character, all manifestation of racial, ethnic, political or religious discrimination, are punished by the law.

On the territory of the Republic[,] foreigners benefit from the same rights and freedoms as Nigerien citizens within the conditions determined by the law.

#### Article 10

Under the framework [*cadre*] of the freedom of association recognized and guaranteed by this Constitution, the parties, groups of political parties, trade-unions [*syndicats*], and other associations are formed and exercise their activities freely under reserve of respect for the principles of national sovereignty of democracy and of the laws of the Republic.

The political parties and the groups of political parties concur in the expression of suffrage.

The [political] parties with an ethnic, regionalist or religious character are prohibited.

### TITLE II

#### OF THE RIGHTS AND DUTIES OF THE HUMAN PERSON

#### Article 11

The human person is sacred. The State has the absolute obligation to respect it and to protect it. It guarantees to it a full development.

#### Article 12

Each has the right to life, to health, to freedom, to security, to physical integrity, to education and to instruction within the conditions defined by the law.

#### Article 13

No one shall be submitted to torture, to slavery or to cruel, inhuman or degrading abuse or treatments [*séVICES*].

#### Article 14

Any individual, any agent of the State, who is found culpable [*se render coupable*] of acts of torture, of cruel, inhuman or degrading abuse or treatments [*séVICES*] in the exercise of or on the occasion of the exercise of their functions, either on his own initiative, or under instructions, will be punished according to the law.

#### Article 15

Each has the right to the free development of his personality in its material, temporal, intellectual and spiritual, provided that he does not violate the rights of others, or infringe the constitutional order, the legal order or morality.

#### Article 16

No one may be arrested or charged except by virtue of a law that entered into force prior to the acts alleged against them.

No citizen may be forced into exile or be subject to deportation.

#### Article 17

The laws and regulations only have retroactive effect insofar as [they] concern the rights and advantages that they may confer to the citizen.

#### Article 18

Any person accused of a delinquent act is presumed innocent until their culpability has been legally established in the course of a public process [*procès*] during which all the guarantees necessary for their free defense have been assured to them.

No one shall be condemned for actions or omissions which, at the moment when they were committed, did not constitute an infraction according to the national law. In the same way [*de même*], more severe penalties than those applicable at the moment when the infraction was committed may not be inflicted.

#### Article 19

Marriage and family constitute the natural and moral base of the human community. They are placed under the protection of the State.

The State and public collectivities have the duty to see to the physical, mental and moral health of the family, particularly [of] the mother and the child.

#### Article 20

Parents have the right and the duty to raise their children. They are supported in this task by the State and the public collectivities.

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

The State sees to the elderly or handicapped.

#### Article 21

The domicile is inviolable. Search may only be ordered within the forms and conditions provided for by the law.

#### Article 22

Any person has a right to property. No one may be deprived of their property except for cause of public utility [and] under reserve of a just and prior indemnification.

#### Article 23

The secrecy of correspondence and of communications is guaranteed within the conditions defined by the law.

#### Article 24

Any person has the right to freedom of thought, of opinion, of expression, of conscience, of religion and of worship [*culte*].

The State guarantees the free exercise of worship [*culte*] and the expression of beliefs [ *croyances*].

These rights are exercised within respect for the public order, for social peace and for national unity.

#### Article 25

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

#### Article 26

The State recognizes to all citizens the right to work and strives to create the conditions that make the enjoyment of this right effective, and that guarantee to the worker just compensation [*rétribution*] for his services or for his production.

#### Article 27

The State recognizes and guarantees the syndical right and the right to strike that are exercised within the conditions provided for by the laws and regulations.

#### Article 28

Any person has the right to a healthy environment. The State sees to the protection of the environment.

The storage, the handling and the disposal of toxic wastes or pollutants originating from factories and other industrial or artisanal sites, installed on the national territory[, ] are regulated by the law.

The transit, importation, storage, landfill, [and] dumping on the national territory of foreign pollutants or toxic wastes, as well as any agreement relating [to it] constitute a crime against the Nation. The sanctions applicable are defined by the law.

#### Article 29

The defense of the Nation and of the integrity of the territory of the Republic is a sacred duty for each Nigerien citizen.

Military service is obligatory. The conditions of the accomplishment of this duty are determined by the law.

#### Article 30

All Nigerien citizens, civil or military, have the sacred duty to respect, in all circumstances, the Constitution and the juridical order of the Republic.

#### Article 31

All citizens have the duty to work for the common good, to fulfill all their civic and professional obligations, and to make their tax [*fiscales*] contributions.

#### Article 32

The public assets are sacred and inviolable. Every person must respect them and protect them scrupulously. Any act of sabotage, of vandalism, of corruption, of diversion, of squandering or of illicit enrichment is reprimanded [*réprimé*] by the law.

#### Article 33

The State protects, abroad, the rights and legitimate interests of Nigerien citizens.

#### Article 34

The State has the duty to assure the diffusion and the teaching [*enseignement*] of the Constitution as well as the Rights of Man and the fundamental freedoms.

#### Article 35

The rights and duties proclaimed above and guaranteed by this Constitution bind the legislative, executive and judicial powers as well as all persons, with the character [*titre*] of laws directly applicable.

#### Article 36

All these rights and freedoms are exercised within respect for the laws and regulations in force.

### **TITLE III OF THE EXECUTIVE POWER**

#### Article 37

The President of the Republic is the Head of the State.

He incarnates the national unity.

He is the guarantor of the national independence, of the national unity, of the integrity of the territory, of respect for the Constitution, [and] for the international treaties and agreements. He assures the regular functioning of the public powers and the continuity of the State.

#### Article 38

The President of the Republic is elected for five (5) years by universal, free, direct, equal and secret suffrage. He is re-eligible one sole time.

Every Nigerien of [Nigerien] nationality of origin, at least forty (40) years old, enjoying their civil and political rights[,] is eligible to the Presidency of the Republic.

#### Article 39

The election of the President of the Republic takes place by majority ballot in two rounds.

The candidate who obtains the absolute majority of the suffrage expressed in the first round is declared elected.

If this condition is not met, it proceeds, fourteen (14) days after, to a second round of [the] ballot in which the two (2) candidates that arrived ahead in the first round take part.

In the case of withdrawal [*déssistement*] of one or the other of the two candidates, the candidates following present themselves in the order of their ranking [*classement*] after the first round.

After the second round, the candidate who obtained the greatest number of votes is declared elected.

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

The first round of the ballot with a view to the election of the President of the Republic takes place thirty (30) days at least and forty (40) days at most before the expiration of the mandate of the President in office [*exercice*].

#### Article 40

The mandate of the new President of the Republic takes effect counting from the date of expiration of the mandate of his predecessor.



The law specifies the conditions of eligibility, of presentation of the candidatures, of development of the ballot, of counting [*dépouillement*] and of proclamation of the results.

The Supreme Court controls the regularity of these operations and proclaims the definitive results of them.

#### Article 41

Before entering into [his] functions, the President of the Republic takes an oath before the Supreme Court, in the presence of the members of the National Assembly, in these terms:

*“Before God and before the sovereign Nigerien People, We ....., President the Republic, elected according to the laws, solemnly swear on the Holy Book [Livre Saint]:*

- to respect and to have respected the Constitution that the People have freely given to themselves;*
  - to loyally fulfill the high functions with which we have been invested;*
  - to never betray or to misrepresent the aspirations of the People;*
  - to respect and to defend the republican form of the State;*
  - to preserve the integrity of the territory and the unity of the Nation;*
  - to respect and to defend the rights and freedoms of the citizens;*
  - not to take or to guarantee [cautionner] for any measures degrading [avilissante] human dignity;*
  - to work tirelessly for the happiness of the People;*
  - to spare no effort for the realization of African Unity;*
  - to conduct ourselves in all [matters] as faithful and loyal servant of the People;*
- In the case of perjury, may we suffer the rigors of the law”.*

The oath is received by the President of the Supreme Court.

#### Article 42

After the ceremony of investiture and within a time period of forty-eight (48) hours, the President of the Supreme Court publicly receives the declaration[,] written on his honor[,] of the assets of the President of the Republic.

This declaration is subject to an annual updating and [one] at the cessation of the functions. The initial declaration and the updates are published in the *Journal Officiel* [Official Gazette] and by the way of the press.

#### Article 43

During his mandate, the President of the Republic may not, by himself, or by others, purchase or lease anything that belongs to the domain of the State.

He may not take part, either by himself or by others, in the public and private markets of the State and of its separated parts [*démembrements*].

#### Article 44

In the case of vacancy of the Presidency of the Republic by death, resignation or absolute impediment, the functions of President of the Republic are provisionally exercised by the President of the National Assembly.

The absolute impediment is declared by the Supreme Court[,] referred to [the matter] by the President of the National Assembly after consultation of the Bureau of it.

It [then] proceeds to new presidential elections forty-five (45) days, at least and ninety (90) days at most after the opening of the vacancy.

When the President of the National Assembly assures the interim of the President of the Republic within the conditions enounced in the paragraphs above, he may stand as a candidate in the presidential elections. He exercises the attributions vested [*dévolues*] in the President of the Republic with the exception of those provided for in Article 47, in paragraph 1 of Article 50, in Article 51, in paragraph 1 of Article 52, in Article 55, in paragraphs 2 and 3 of Article 58, [and] in Articles 117 and 122.

In the case of impeachment [*mise en accusation*] of the President of the Republic before the High Court of Justice, his interim is assured by the President of the Supreme Court who exercises all the functions of President of the Republic, with the exception of those mentioned in the preceding paragraph.

During the interim periods provided for by the provisions of this Article, application of Articles 88 and 89 may not be made.

#### Article 45

In the case of absence from the territory, of sickness or of vacation [*congé*] of the President of the Republic, his interim is assured by the Prime Minister within the limits of the powers that he would have delegated to him.

#### Article 46

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

#### Article 47

The President of the Republic appoints the Prime Minister. He terminates his functions on the presentation by him of the resignation of the Government.

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

#### Article 48

The President of the Republic presides over the Council of Ministers. The Prime Minister substitutes for him within the conditions established by this Constitution.

#### Article 49

The President of the Republic promulgates the law within the fifteen (15) days which follow the transmission which has been made to him by the President of the National Assembly.

This time period is reduced to five (5) days in case of urgency declared by the National Assembly.

The President of the Republic can, before the expiration of these time periods, demand of the National Assembly a second deliberation of the law or certain of its articles. This deliberation may not be refused.

He can equally, within the same time periods, demand and obtain of plain right that this second deliberation may only then take place [during] the ordinary session following the session in course in which the text was adopted in first reading.

If after a second reading, the National Assembly votes the text with the majority of two-thirds (2/3) of its members, the law is promulgated.

#### Article 50

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

A new Assembly is elected forty-five (45) days at least and ninety (90) days at most after this dissolution.

It may not proceed to a new dissolution within the twelve (12) months which follow the elections.

#### Article 51

The President of the Republic can, after the opinion [*avis*] of the National Assembly, submit to referendum any text which appears to him to demand [*devoir exiger*] the direct consultation of the People.

When the bill is adopted by referendum, the President promulgates it within the time periods specified in paragraphs 1 and 2 of Article 49.

#### Article 52

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

The ambassadors and envoys extraordinary are accredited to him.

#### Article 53

The President of the Republic is the Head of the Administration.

#### Article 54

The President of the Republic is the Head of the Armies.

#### Article 55

When the institutions of the Republic, the independence of the Nation, the integrity of the national territory or the execution of the international engagements are menaced in a grave and immediate manner and the regular functioning of the public constitutional powers is interrupted, the President of the Republic takes the exceptional measures demanded by these circumstances after consultation of the Prime Minister, of the President of the National Assembly and of the President of the Supreme Court.

He informs the Nation of it by a message. The National Assembly meets of plain right if it is not in session.

These measures must be inspired by the will to assure to the constitutional public powers, within the shortest time periods, the means to accomplish their mission.

The National Assembly may not be dissolved during the exercise of exceptional powers.

#### Article 56

The President of the Republic proclaims the State of Urgency within the conditions determined by the law.

#### Article 57

The President of the Republic has the right of pardon.

#### Article 58

The President of the Republic signs the ordinances and the decrees deliberated in the Council of Ministers.

He appoints to the civil and military employments of the State.

The Members of the Supreme Court, the High Chancellor of the National Orders, the Officers General, the Ambassadors and Envoys Extraordinary, the Prefects and Sub-Prefects, the Secretaries General of the ministries, [and] the Directors of the central administrations, are appointed by decree taken in the Council of Ministers.

An organic law determines the other employments which are provided for in the Council of Ministers as well as the conditions within which the power of appointment of the President of the Republic may be delegated by him to be exercised in his name.

#### Article 59

The law establishes the advantages granted to the President of the Republic and organizes the modalities of the grant of a pension to former Presidents of the Republic enjoying their civic rights.

#### Article 60

The Prime Minister is the Head of the Government. He directs, animates and coordinates the governmental action.

He assures the execution the laws.

He may delegate certain of his powers to the Ministers.

By virtue of an express delegation and for a determined agenda, he substitutes the President of the Republic for the presidency of the Council of Ministers.

#### Article 61

The acts of the Prime Minister are countersigned, the case arising, by the Ministers responsible for their execution.

#### Article 62

The Government determines and conducts the policy of the Nation.

It has the Administration and the Armed Force at [its] disposal.

It is responsible before the National Assembly within the conditions provided for in Articles 88 and 89.

#### Article 63

The acts of the President of the Republic other than those provided for in paragraph 1 of Article 47, in Articles 50, 51, 55, 78 and in paragraph 2 of Article 98 are countersigned by the Prime Minister and, the case arising, by the Ministers responsible.

#### Article 64

Before entering into [their] functions, the Prime Minister and the Ministers must remit to the President of the Supreme Court the written declaration[,] on their honor[,] of their assets. This declaration is made the object of an annual update [*mise à jour*] and at the cessation of the functions.

The initial declaration and the updates are published in the *Journal Officiel* [Official gazette].

The provisions of Article 43 are applicable to members of the Government.

The law determines the other public agents subject to the obligation of declaration of assets, as well as the modalities of this declaration.

Article 65

The functions of member of the Government are incompatible with the exercise of any parliamentary mandate, with any function of professional representation of a national or local scale [*à l'échelle*], with any public employment and with any professional activity.

**TITLE IV  
OF THE LEGISLATIVE POWER**

Article 66

The Legislative Power is exercised by one sole chamber called the “National Assembly” of which the members have the title of Deputies.

Article 67

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

The duration of a legislature is of five (5) years. The general elections for the renewal of the National Assembly take place ten (10) days at least and twenty (20) days at most prior to the end of the current legislature.

The law establishes the number of members of the National Assembly, their indemnity, the conditions of eligibility, the regime of ineligibilities and of incompatibilities, the modalities of the ballot, as well as the conditions under which it proceeds to organize new elections in case of vacancy of [the] seats of [a] Deputies.

Article 68

The Supreme Court decides on the eligibility of the candidates.

It equally decides on the validity of the election of the Deputies.

Article 69

Each Deputy is the representative of the Nation.

Any imperative mandate is null.

The right to vote of the Deputies is personal. However, the delegation of the vote is permitted when a Deputy is absent for cause of illness, for execution of a mandate or of a mission entrusted to him by the Government or the Assembly, or to fulfill their military obligations. No one may receive for one ballot more than one delegation of [the] vote.

Article 70

The members of the National Assembly enjoy parliamentary immunity.

No Deputy may be prosecuted, investigated, arrested, detained or judged on the occasion of the opinions or of the votes emitted by him in the exercise of his functions.

Except in the case of flagrante delicto, no Deputy may, during the duration of the sessions, be prosecuted or arrested in a correctional or criminal matter except with the authorization of the National Assembly.

No Deputy may, out of session, be arrested except with the authorization of the Bureau of the National Assembly, except in the case of flagrante delicto, of authorized prosecutions or of definitive condemnations.

The detention or the prosecution of a Deputy is suspended if the National Assembly requires it by a majority of two-thirds (2/3).

#### Article 71

The National Assembly is directed by a President assisted by a Bureau elected within the conditions established by the internal regulations.

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

When he assures the interim of the President of the Republic within the conditions specified in the Article 43 of this Constitution, the President of the National Assembly is replaced in his functions according to the internal regulations of the National Assembly.

In the case of vacancy of the Presidency of the Assembly by death, resignation or any other cause, the Assembly elects a new President within the fifteen (15) days that follow the vacancy[,] if it is in session; the case arising[,] it meets of plain right within the conditions established by the internal regulations.

#### Article 72

The National Assembly votes the law and consents to taxes.

It controls the action of the Government.

#### Article 73

Each year, the National Assembly meets of plain right in two (2) ordinary sessions on the convocation of its President.

The first session opens the first week of the month of March and may not exceed ninety (90) days.

The second session, called [the] budgetary session, opens the first week of the month of October and may not exceed sixty (60) days.

#### Article 74

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

The extraordinary sessions, except in the cases where they take place of plain right, are opened and closed by decree of the President of the Republic. The closure intervenes as soon as the agenda is exhausted.

Their duration may not exceed fifteen (15) days.

#### Article 75

The sittings of the National Assembly are public. A complete record of the debates is published in the *Journal Officiel* [Official Gazette].

At the demand of the President of the Republic or of one-third (1/3) of the Deputies, the Assembly may sit in closed session.

#### Article 76

The work of the National Assembly takes place following the internal regulations that it adopts in accordance with the Constitution.

The internal regulations determine notably:

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

- the number, the mode of appointment, the composition, the role and the competence of the permanent commissions as well as those that are special and temporary;
- the creation of parliamentary commissions of inquiry within the framework of the control of the governmental action;
- the organization of the administrative services directed by a Secretary General placed under the authority of the President of the National Assembly;
- the disciplinary regime of the Deputies during the sittings of the Assembly;
- the different modes of the ballot, with the exclusion of those expressly provided for by this Constitution;
- the conditions of exercise of the right of interpellation as well as the rules applicable in the matter of written and oral questions;

## TITLE V

### OF RELATIONS BETWEEN THE EXECUTIVE AND LEGISLATIVE POWERS

#### Article 77

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

#### Article 78

The President of the Republic communicates with National Assembly either directly, or by the messages which he has read by the President of the National Assembly.

These messages do not give rise to any debate.

#### Article 79

The members of the Government have access to the plenary and to the commissions of the National Assembly. They are heard either at the demand of these, or at their own demand.

They may be [*se faire*] assisted by their collaborators.

#### Article 80

The members of the National Assembly, either individually, or collectively may interpellate the Prime Minister or any member of the the Government by means of a request [*requête*]

The members of the National Assembly may equally obtain, by means of written or oral questions, any information on the activities or the acts of administration of the Government.

#### Article 81

The law establishes the rules concerning:

- citizenship, the civil rights and the fundamental guarantees for the exercise of public freedoms;
- the constraints imposed in the interest of national defense and of public security on citizens, on their persons and on their assets.
- nationality, the state and the capacity of the persons, the matrimonial regimes, inheritance and gifts;

- the procedure according to which customs [*coutumes*] will be declared and brought into harmony with the fundamental principles of the Constitution;
- the determination of crimes and misdemeanors as well as of the penalties applicable to them, the penal procedure, [and] amnesty;
- the organization of the jurisdictions of all orders and the procedure to be followed before these jurisdictions, the creations of new orders of jurisdiction, the status of the magistrates, of the ministerial officers and of the auxiliaries of justice;
- the base [*l'assiette*], the rate and the modalities for collecting taxes [*impositions*] of any nature;
- the regime of emission of the currency;
- the electoral regime of the President of the Republic, of the members of the National Assembly and of the local assemblies;
- the creation of categories of public establishments;
- the nationalization of enterprises and the transfers of property of enterprises from the public sector to the private sector;
- the general status of the Public Function;
- the status of the military personnel, of the Forces of Public Security and Similar [Forces];
- the status of the traditional leadership [*chefferie*];
- the general organization of the Administration;
- the territorial organization, the creation and the modification of the administrative circumscriptions as well as the electoral divisions;
- the state of siege and the state of urgency.

#### Article 82

The law determines the fundamental principles:

- of the organization of the national defense;
- of the free administration of the territorial collectivities, of their competences and of their resources;
- of teaching [*enseignement*] and of scientific research;
- of health;
- of the protection of the environment and of the conservation of the natural resources;
- of the protection, of the conservation and of the organization of the airspace [*l'espace*];
- of the protection of the cultural patrimony;
- of the regime of property, of real rights and of civil and commercial obligations;
- of the right to work [*droit du travail*], of social security, of the syndical right and of the right to strike;
- of the alienation and of the management of the domain of the State;
- of insurance [*mutualité*] and of savings;
- of the regime of transport, of the posts and of telecommunications



- of the regime of public accounting;
- of the penitentiary regime.

#### Article 83

The Laws of Finance determine the resources and the charges of the State.

The program laws [*lois de programme*] establish the objectives of the economic and social action of the State.

The laws of regulation [*lois de règlement*] sanction the execution of the budget of the State.

#### Article 84

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

The texts of legislative form intervening in these matters before the entry into force of this Constitution may be modified by decree issued after the opinion [*avis*] of the Supreme Court.

#### Article 85

The declaration of war is authorized by the National Assembly.

#### Article 86

The state of siege is decreed in the Council of Ministers. The National Assembly meets then of plain right, if it is not in session.

The extension of the state of siege over fifteen (15) days may only be authorized by the National Assembly.

#### Article 87

The Government can, for the execution of its program, demand of the National Assembly the authorization to take by ordinance(s) for a limited time period, measures that are normally of the domain of the law.

This authorization takes the form of an enabling law [*loi d'habilitation*].

The ordinances are taken in the Council of Ministers after the contingent opinion [*avis éventuel*] of the Supreme Court, the case arising. They enter into force on their publication but become lapsed if the bill of law of ratification is not deposited before the National Assembly before the date established by the enabling law.

At the expiration of the time period mentioned in the first paragraph of this Article, the ordinances may only be modified by the law in their provisions that are of the domain of the law.

#### Article 88

The Prime Minister, after deliberation of the Council of Ministers, can engage before the National Assembly the responsibility of the Government on its program or eventually on a declaration of general policy.

The National Assembly initiates [*met en cause*] the responsibility of the Government by the vote of a motion of censure. Such a motion is only receivable if it is signed by one-tenth (1/10) at least of the members of the National Assembly. The vote may only take place forty-eight (48) hours after its deposit. Only the votes favorable to the motion of censure are counted[,] which may only be adopted with the majority of the members composing the Assembly. If the motion is rejected, the signatories may not propose a new one in the course of the same session, save in the case provided for in the paragraph above.

The Prime Minister can, after deliberation of the Council of Ministers, engage the responsibility of the Government before the National Assembly on the vote of a text. In this case, the text is considered as adopted except if a motion of censure, deposited within the twenty-four (24) hours which follow, is voted within the conditions provided for in the preceding paragraph.

#### Article 89

When the National Assembly adopts a motion of censure or when it disapproves the program or a declaration of general policy of the Government, the Prime Minister must remit the resignation of the Government to the President of the Republic.

#### Article 90

The Government has the initiative of law concurrently with the members of the National Assembly.

#### Article 91

The Deputies and the Government have the right of amendment.

#### Article 92

The proposals, bills and amendments that are not of the domain of the law are irreceivable. The irreceivability is pronounced by the President of the National Assembly.

In the case of dispute [*contestation*], the Supreme Court, referred to [the matter] by the Prime Minister or by the President of the National Assembly, decides within a time period of eight (8) days.

#### Article 93

The proposals and amendments deposited by the Deputies are not receivable when their adoption would have as consequence either a diminution of the public resources, or the creation or the aggravation of a public charge, unless they are accompanied by a proposal of augmentation 90 receipts or of equivalent economies.

#### Article 94

The discussion of the bills of law focuses on the text presented by the competent commission of the National Assembly.

At the demand of the Government, the commission must bring to the cognizance of the National Assembly, the points on which there is disagreement with the Government.

#### Article 95

The National Assembly votes the bill of the Law of Finance within the conditions determined by the law.

#### Article 96

The National Assembly is referred to [the matter] of the bill of the Law of Finance from the opening of the budgetary session; the bill of the Law of Finance must provide for the receipts necessary for the complete coverage of the expenses.

The National Assembly votes [a] balanced budget [*en équilibre*].

If the National Assembly has not decided within sixty (60) days of the presentation of the bill, the provisions of this bill can be put into force by ordinance.

The Government refers [the matter], for ratification, to the National Assembly convoked in extraordinary session, within a time period of fifteen (15) days.

If the National Assembly has not voted the budget at the end of this extraordinary session, the budget is definitively established by ordinance.

If the bill of the Law of Finance could not be presented in a timely fashion to be promulgated before the debut of the fiscal year [*exercice*], the Prime Minister demands of urgency of the National Assembly the authorization to continue the budget of the preceding year by provisional twelfths.

#### Article 97

The National Assembly governs [*règle*] the accounts of the Nation following the modalities specified by the Law of Finance.

It may make the Chamber of Accounts and of Budgetary Discipline of the Supreme Court responsible for [*charger*] all inquests and studies related to the execution of the public receipts and expenses.

### TITLE VI

#### OF CONTROL OF THE CONSTITUTIONALITY OF THE LAWS

#### Article 98

The organic laws, before their promulgation and the regulations of the National Assembly, before their entry into effect [*mise en application*], must be submitted to the Supreme Court which decides on their conformity to the Constitution.

To the same ends, the laws may be deferred to the Supreme Court, before their promulgation, by the President of the Republic, the President of the National Assembly, the Prime Minister or one-tenth (1/10) of the Deputies.

In the cases provided for in the preceding paragraphs, the Supreme Court decides within the time period of one month. However, at the demand of the Government, if there is urgency, this time period is reduced to eight (8) days.

In the same cases, the referral of [the matter] to the Supreme Court suspends the time period for promulgation.

Any person party to a process can, by way of a pleadings [*exception*], raise the unconstitutionality of a law before any jurisdiction.

Any law, or any provision of law declared unconstitutional on the basis of the preceding paragraph becomes lapsed of plain right.

The order [*arrêt*] of the Supreme Court establishing this unconstitutionality is published in the *Journal Officiel* [Official Gazette] following the procedure of urgency.

### TITLE VII

#### OF THE JUDICIAL POWER

#### Article 99

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

It is exercised by the Supreme Court, [and] the courts and tribunals created in accordance with this Constitution.

Article 100

Justice is rendered on the national territory in the name of the People, and within strict respect for the rule of law as well as for the rights and freedoms of each citizen.

Article 101

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

The President of the Republic is [the] guarantor of the independence of the judges.

He is assisted by the Superior Council of the Magistrature [*Conseil supérieur de la magistrature*].

Article 102

The presiding magistrates [*du siège*] are appointed by the President of the Republic on proposal of the Minister of Justice, Guardian of the Seals [*Garde des Sceaux*], after the opinion of the Superior Council of the Magistrature.

The presiding magistrates are irremovable.

Article 103

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

**SECTION I  
OF THE SUPREME COURT**

Article 104

The Supreme Court is the highest jurisdiction of the State.

It includes four (4) chambers: the constitutional chamber, the judicial chamber, the administrative chamber and the chamber of accounts and of budgetary discipline.

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

**SECTION II  
OF THE HIGH COURT OF JUSTICE**

Article 105

The High Court of Justice is composed of Deputies that the National Assembly elects from within after each general renewal.

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

The law establishes the number of its members, the rules of its functioning as well as the procedure followed before it.

Article 106

The President of the Republic is not responsible for the acts accomplished in the exercise of his functions except in the case of high treason. He is judged by the High Court of Justice.

There is high treason when the President of the Republic has violated his oath, is [the] recognized author, co-author or accomplice of grave and characterized violations of the rights of man, [or] of fraudulent cession of a part of the national territory.

When the President of the Republic is found guilty of the crime of high treason, he is of plain right relieved [*déchu*] of his functions.

The High Court of Justice is competent to judge the members of the Government for the reason of acts qualified as crimes or misdemeanors committed in the exercise of their functions, with the exception of crimes and misdemeanors against the security of the State as well as connected crimes and misdemeanors.

#### Article 107

The impeachment [*mise en accusation*] of the President of the Republic is voted by public ballot by the majority of two-thirds (2/3) of the Deputies composing the National Assembly.

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

#### Article 108

The High Court of Justice is bound [*liée*] by the definition of the crimes and misdemeanors[,] and by the determination of the sentences resulting from the penal laws in force at the time [*époque*] of the acts included in the prosecutions.

### TITLE VIII

#### OF THE ECONOMIC, SOCIAL AND CULTURAL COUNCIL

#### Article 109

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

It gives its opinion on the questions which are submitted to it by the President of the Republic, the Government or the Assembly.

#### Article 110

The Economic, Social and Cultural Council is competent to examine the bill and proposals of law of an economic, social and cultural character excluding the laws of finance.

The Council is obligatorily referred to [the matter] for [its] opinion concerning the bills of program law of economic and social character and of planning [character].

It may be referred to any problem of interest to the economic and social life of the Nation.

The Council can, on its own initiative, undertake any study or inquiry concerning the economic, social or cultural questions. Its reports are transmitted to the President of the Republic for any useful ends.

#### Article 111

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

The composition of the Council will take into account the concern of an adequate representation of the regions and of the civil society.

### TITLE IX

#### OF THE SUPERIOR COUNCIL OF COMMUNICATION

#### Article 112

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

Article 113

The Council has for [its] mission to assure and to guarantee the freedom and the independence of the means of audiovisual communication and of the written press within respect for the law.

It sees to the respect for ethics [*déontologie*] in matters of information and to the equitable access of the political parties, of the associations and of the citizens to the official means of information and of communication.

Article 114

The composition, the organization, the attributions and the functioning of the Superior Council of Communication are established by the law.

**TITLE X  
OF THE TERRITORIAL COLLECTIVITIES**

Article 115

The territorial administration is based [*repose*] on the principles of decentralization and deconcentration.

The territorial collectivities are created by the law.

The law determines the fundamental principles of the free administration of the territorial collectivities, their competences and their resources.

Article 116

The State sees to the harmonious development of all the territorial collectivities on the basis of national solidarity, of regional potentialities and of interregional equilibrium.

**TITLE XI  
OF INTERNATIONAL TREATIES AND AGREEMENTS**

Article 117

The President of the Republic negotiates and ratifies the International Treaties and Agreements.

Article 118

The treaties of defense and peace, the treaties and agreements relative to international organizations, those which modify the internal laws of the State and those which involve [*portent*] financial engagement from the State may only be ratified following a law.

Article 119

If the Supreme Court, referred to [the matter] by the President of the Republic, the President of the National Assembly or the Prime Minister, has declared that an international agreement contains a clause contrary to the Constitution, the authorization to ratify it can only intervene after revision of the Constitution.

Article 120

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

**TITLE XII**  
**OF COOPERATION AND ASSOCIATION WITH STATES**

Article 121

The Republic of Niger may conclude with any African State agreements of association or of community involving [*emportant*] partial or total abandonment of sovereignty in order to achieve African Unity.

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

It accepts to create with these States, intergovernmental organs [*organismes*] of common management, of coordination and of free cooperation.

These organs may have as [their] objective, notably:

- the harmonization of economical, financial and monetary policy;
- the establishment of unions with a view to [*visant*] to economic integration by the promotion of production and of exchanges;
- the creation of funds of solidarity;
- the harmonization of the plans of development;
- the harmonization of the foreign policy;
- cooperation in judicial matters;
- cooperation in defense matters;
- cooperation and coordination in health matters;
- cooperation in cultural, scientific and technical matters;
- the coordination of transport, communications and telecommunications;
- cooperation in the matters of the fight against natural calamities;
- to enhance [*la mise en valeur*] natural resources;
- the preservation of the environment.

**TITLE XIII**  
**OF REVISION**

Article 122

The initiative of the revision of the Constitution belongs concurrently to the President of the Republic on proposal of the Prime Minister and to the members of the National Assembly.

Article 123

To be taken into consideration, the bill or the proposal of revision must be voted by a majority of three-fourths (3/4) of the members composing the National Assembly.

The revision is only adopted [*acquise*] after having been approved by referendum, except if the bill or the proposal in question was approved by a majority of four-fifths (4/5) of the members composing the National Assembly.

Article 124

No procedure of revision may be engaged or followed when the integrity of the national territory is infringed.

The republican form of the State, the principle of the separation of State and of religion, [and] the multiparty [system] may not be made the object of any revision.

**TITLE XIV**  
**OF TRANSITORY AND FINAL PROVISIONS**

Article 125

This Constitution will be adopted by referendum.

It will enter into force from its promulgation by the President of the Republic within the eight (8) days following the proclamation of the results of the referendum by the Supreme Court.

Article 126

The President of the Republic, the High Council of the Republic and the Government of Transition continue to exercise their responsibilities until the official entry into [their] functions of the new authorities.

Article 127

Fundamental Act No. XXI of the National Sovereign Conference of 29 October 1991 concerning the organization of the public powers during the period of transition remains in force until the entrance into [their] functions of the new authorities.

The President of the Republic, the President of the High Council of the Republic and the Prime Minister of the period of transition may not be candidates to the presidential elections which take place during the transition.

Article 128

The legislation now [*actuellement*] in force remains applicable, except express abrogation, insofar as it does not have anything contrary to this Constitution.

Notwithstanding the provisions of this Constitution, the dossiers pending before the Commission responsible for inquiry concerning political, economic and socio-cultural crimes and abuses from the date of entry onto force of this Constitution, duly inventoried, remain subject to the rules defined by Act V/CN of 14 August 1991 concerning creation and attributions of [the] said Commission, notably those relative to the prescription and authority of the matter judged [*res judicata*].

These dossiers, of which the inventory is published in the *Journal Officiel* [Official Gazette], will be transmitted as they are [*en l'état*] to the new authorities

Article 129

The provisions necessary for the entrance into force of this Constitution will be made the object either of ordinances voted by the High Council of the Republic, or by decrees taken in the Council of Ministers.

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