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Djibouti's Constitution of 1992 with Amendments through 2010

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Translated by Jefri J. Ruchti

- Preamble
- Motives for writing constitution
- Source of constitutional authority

Preamble

- God or other deities
- International human rights treaties

In the name of God All-Powerful

The Djiboutian People solemnly proclaim their attachment to the principles of Democracy and of the Rights of Man as they are defined by the Universal Declaration of the Rights of Man and by the African Charter of the Rights of Man and of Peoples, of which the provisions form an integral part of this Constitution.

They affirm their determination to establish a State of Law and of Pluralist Democracy guaranteeing the full enjoyment of the individual and collective rights and freedoms as well as the harmonious development of the national community.

- Reference to fraternity/solidarity

They affirm their will to cooperate in peace and amity with all peoples who share their ideals of liberty, of justice and of solidarity, on the basis of mutual respect, of national sovereignty and of territorial integrity.

TITLE I. OF THE STATE AND OF SOVEREIGNTY

- Official religion

Article 1

Islam is the Religion of the State

The State of Djibouti is a democratic, sovereign, one and indivisible Republic.

- General guarantee of equality

It assures to all equality before the law without distinction of language, of origin, of race, of sex or of religion. It respects all beliefs.

- National motto

Its motto is "Unité - Egalité - Paix" (Unity - Equality -Peace).

Its principle is government of the people, by the people and for the people.

- Official or national languages

Its official languages are Arabic and French.

- National capital

Article 2

The capital of the State is Djibouti.

- National flag

The emblem of the Republic is the blue, green and white flag bearing a red star of five points.

- National anthem

The law determines the anthem and the seal of the Republic.

Article 3

- Equality regardless of language
- Equality regardless of gender
- Equality regardless of religion
- Equality regardless of race

The Republic of Djibouti as composed of the entirety of the persons that it recognizes as members and who have accepted the duties, without distinction of language, of race, of sex or of religion.

- Referenda

The national sovereignty belongs to the Djiboutian people who exercise it through their representatives or by way of referendum. No fraction of the people nor any individual may arrogate the exercise of it.

No one may be arbitrarily deprived of the status of member of the national community.

Article 4

- Claim of universal suffrage
- Secret ballot

The popular legitimacy is the foundation and the source of all power. It is expressed by universal, equal and secret suffrage.

The executive power and legislative power shall proceed from universal suffrage or from the instances elected through it.

- Restrictions on voting

Article 5

All the Djiboutian nationals of majority, of both sexes, enjoying their civil and political rights are electors within the conditions determined by the law.

- Right to form political parties

Article 6

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

They form and exercise their activities freely within respect for the Constitution, and for the principles of national sovereignty and of democracy.

- Prohibited political parties
- Regulation of political parties

It is forbidden to them to identify themselves to a race, to an ethnicity, to a sex, to a religion, to a sect, to a language or to a region.

- Restrictions on political parties

The formalities concerning the administrative declaration of the political parties and/or groups, and to the exercise and to the cessation of their activities are determined by the law.

Article 7

The Institutions of the Republic are:

- the executive power,
- the legislative power,
- the judicial power.

Each of these powers assumes the full and entire responsibility of its prerogatives and attributions within such conditions that the continuity and regular functioning of the republican institutions shall be assured.

Article 8

The institutions of the Republic must permit the normal and regular exercise of popular sovereignty and guarantee the full expression of the public rights and freedoms.

- International organizations

Article 9

The institutions must permit the participation of the Republic in regional and international organizations, with respect for sovereignty, for the edification of peace and of international justice and the economic, cultural and social development of peoples.

TITLE II. OF THE RIGHTS AND DUTIES OF THE HUMAN PERSON

- Prohibition of capital punishment

Article 10

The human person is sacred. The State has the obligation to respect it and to protect it. All human beings are equal before the law.

No one may be condemned to the penalty of death.

- Right to life

Every individual has the right to life, to the liberty, to the security and to the integrity of his person.

- Protection from ex post facto laws
- Protection from unjustified restraint
- Principle of no punishment without law

No one may be prosecuted, arrested, inculpated or condemned except by virtue of a law promulgated prior to the acts of which he is accused.

- Presumption of innocence in trials

All accused persons are presumed innocent until their culpability has been established by the competent jurisdiction.

- Right to counsel

The right to a defense, and including that of assistance by the attorney of one's own choice, is guaranteed at all the stages of the procedure.

Any person made the object of a measure deprivative of his liberty has the right to be examined by a doctor of his choice.

No one may be detained in a penal establishment except on an order delivered by a magistrate of the judicial order.

- Freedom of religion
- Freedom of opinion/thought/conscience

Article 11

Every person has the right to the freedom of thought, of conscience, of religion, of worship and of opinion within respect for the order established by the law and the regulations.

Article 12

- Right to own property
- Protection from expropriation

The right to property is guaranteed by this Constitution. It may not be infringed except in the case of public necessity legally established, under reserve of a just and prior indemnity.

- Inalienable rights
- Right to privacy

The domicile is inviolable. It may only be subjected to intrusions or searches in the forms and conditions specified by the law. The measures infringing the inviolability of the domicile or circumventing it may only be taken to respond to a collective danger or to protect persons in peril of death.

- Right to privacy
- Inalienable rights

Article 13

The secrecy of correspondence and of all other means of communication is inviolable. Restriction of this inviolability may only be ordered in application of the law.

Article 14

- Freedom of movement

All the citizens of the Republic have the right to move themselves and to establish themselves freely on the entire extent of the Republic. This right may only be limited by the law.

No one may be submitted to preventative measures, except in the cases specified by the law.

Article 15

- Freedom of expression

Each has the right to express and to disseminate freely their opinions by word, pen, and image. These rights may be limited by prescriptions in the law and in respect for the honor of others.

- Freedom of association
- Right to join trade unions

All the citizens have the right to constitute associations and trade unions freely, under reserve of conforming to the formalities ordered in the laws and regulations.

- Right to strike
- Right to work

The right to strike is recognized. It is exercised within the framework of the laws which govern it. It may in no case infringe the freedom to work.

- Prohibition of cruel treatment
- Prohibition of torture

Article 16

No one may be submitted to torture, or to inhuman, cruel, degrading or humiliating actions or treatment.

Any individual, any agent of the State, or any public authority rendered culpable of such acts, either on their own initiative, or on instruction, shall be punished in accordance with the law.

Article 17

The defense of the Nation and of the integrity of the Republic is a sacred duty for every Djiboutian citizen.

Article 18

Any foreigner who is found regularly on the national territory enjoys, for his person and for his assets, the protection of the law.

Article 19

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

Article 20

The authority of the State is exercised by:

- the President of the Republic and his Government,
- the National Assembly,
- the judicial power.

TITLE III. OF THE EXECUTIVE POWER

- Head of government powers
- Name/structure of executive(s)

Article 21

The executive power is assured by the President of the Republic who is also Head of the Government.

- Head of state powers

Article 22

The President of the Republic is the Head of State. He incarnates the national unity and assures the continuity of the State.

- International law

He is the guarantor of the national security, of the national independence, of the territorial integrity and of the respect for the Constitution, and for the international treaties and agreements.

- Eligibility for head of state
- Minimum age of head of state

Article 23

Any candidate to the functions of President of the Republic must be of Djiboutian nationality, to the exclusion of any other, enjoy their civil and political rights and be forty years of age at least, and of seventy-five years at most on the date of the deposit of his candidature.

- Head of state term length
- Head of state selection

Article 24

The President of the Republic is elected for five years by direct universal suffrage and by majority ballot in two rounds. He is re-eligible under the conditions specified in Article 23.

- Head of state selection

Article 25

The presidential elections take place thirty days at least and forty days at most before the expiration of the mandate of the President in office.

- Head of state selection

Article 26

The law establishes the conditions of eligibility and of presentation of the candidatures, of the procedures of conducting of the ballot and of proclamation of the results. It also specifies all the provisions required so that the elections shall be free and regular.

- Head of state selection

Article 27

The President of the Republic is elected with the absolute majority of the suffrage expressed. If this is not obtained at the first round, it proceeds in a time of fifteen days to a second round. This second round is open solely to the two candidates who have received the greatest number of votes.

If one of the two candidates desists, the ballot remains open to the candidate ranking next in the order of suffrage expressed.

If, in the seven days preceding the deadline of deposit of the candidatures, one of the persons having, less than thirty days before this date, publicly announced their decision to be a candidate, dies or is found to be incapacitated, the Constitutional Council can decide to postpone the election.

If, before the first round, one of the candidates dies or is found to be incapacitated, the Constitutional Council orders the postponement of the election.

In the case of death or of incapacity of one of the two candidates most favored in the first round, before any eventual withdrawals, or that of one of the two candidates remaining following any such withdrawals, the Constitutional Council can decide on the repetition of the whole of the electoral operations.

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

- Constitutional court powers

The Constitutional Council controls the regularity of these operations, decides on the complaints, and proclaims the results of the ballot.

- Head of government powers

Article 28

When the President of the Republic is prevented in a temporary fashion from fulfilling his functions, his interim is assured by the Prime Minister.

- Head of state replacement

Article 29

In case of vacancy of the Presidency of the Republic, for any cause that may be, or of definitive incapacity determined by the Constitutional Council, referred to the matter by the Prime Minister or by the President of the National Assembly, the interim is assured by the President of the Supreme Court, who may not be a candidate for the Presidency during the interim.

During this interim, the Government may not be dissolved or adjusted. Equally, it may not proceed to any modification or dissolution of the republican institutions.

The election of the new President takes place thirty days at least and forty-five days at most after the official determination of the vacancy or the definitive character of the incapacity.

- Head of state powers

Article 30

The President of the Republic determines and conducts the policy of the Nation.

He exercises regulatory power.

Article 31

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

Article 32

- Designation of commander in chief
- Selection of active-duty commanders

The President of the Republic is the supreme head of the armies. He appoints the titular officers of the grand commands and the heads of the corps.

He confers the decorations of the Republic.

- Power to pardon

He exercises the right of pardon.

- Referenda

Article 33

The President of the Republic can, after consultation of the President of the National Assembly and of the President of the Constitutional Council, submit any Bill of law to referendum.

Article 34

The President of the Republic promulgates the laws adopted by the National Assembly in a time of fifteen days counting from their transmission, if he does not formulate any demand for a second reading by the said Assembly. He is responsible for their execution.

- Constitutionality of legislation

Article 35

The President of the Republic refers the Constitutional Council to a matter when he deems that a law is contrary to this Constitution.

Article 36

The President of the Republic sees to the execution of the decisions of justice.

- Head of state powers
- Foreign affairs representative

Article 37

The President of the Republic appoints and accredits the diplomatic and consular representatives and the extraordinary envoys to the foreign powers. The ambassadors and the extraordinary envoys of the foreign powers are accredited to him.

Article 38

The law establishes the benefits accorded to the President of the Republic and organizes the modalities of concession of a pension to the former Presidents.

Article 39

- International law

When the institutions of the Republic, the independence of the Nation, the integrity of its territory or the execution of its international engagements are threatened in a grave and immediate manner and when the regular functioning of the public powers is interrupted, the President of the Republic can, after the advice of the President of the National Assembly and of the President of the Constitutional Council and having informed the Nation by a message, take any measure tending to re-establish the regular functioning of the public powers and to assure the safeguarding of the Nation, with the exception of a constitutional revision.

The National Assembly convenes of plain right.

It is referred to the matter, for ratification, within fifteen days of their promulgation, of measures of legislative nature brought into force by the President. These measures become lapsed if the Bill of ratification is not deposited with the Bureau of the National Assembly within the specified time. The ratification, if it is refused by the National Assembly, does not have retroactive effect.

Article 40

- Establishment of cabinet/ministers
- Advisory bodies to the head of state
- Cabinet selection
- Head of government selection
- Cabinet removal
- Head of government removal

The President of the Republic is assisted, in the exercise of his functions, by a Government of which the Prime Minister and the Ministers are members of plain right.

The Government is charged to assist and to be of counsel to the President of the Republic in the exercise of his functions.

The President of the Republic designates the Prime Minister, and on proposal by him, appoints the other members of the Government.

He establishes their attributions and terminates their functions.

The Prime Minister implements the policy of the President of the Republic, coordinates and animates the action of the Government.

The members of the Government are responsible before the President of the Republic.

- Powers of cabinet

Article 41

The President of the Republic presides over the Council of Ministers. It deliberates obligatorily on:

- the decisions determining the general policy of the State;
- the Bills of law;

- the appointments to the superior offices of the State of which the list is established by virtue of a law adopted by the National Assembly.

Article 42

The President of the Republic can delegate certain of his functions to the Prime Minister, to the Ministers and to the high functionaries of the administration, within the framework of their respective attributions.

- Eligibility for head of government
- Eligibility for cabinet

Article 43

The functions of President of the Republic and of member of the Government are incompatible with the exercise of any parliamentary mandate, of any public office and of any professional activity.

TITLE IV. OF THE LEGISLATIVE POWER

- Structure of legislative chamber(s)

Article 44

The Parliament is constituted by a single Assembly, called the National Assembly, of which the members carry the title of Deputies.

Article 45

The Deputies to the National Assembly are elected for five years by direct and secret universal suffrage. They are re-eligible.

- First chamber selection
- Term length for first chamber

All Djiboutian citizens, enjoying their civil and political rights, twenty-three years of age or more, are eligible.

- Minimum age for first chamber
- Eligibility for first chamber

Article 46

The following may not be elected members of the National Assembly during the exercise of their functions:

- the President of the Republic,
- the Prefects and Sub-Prefects,
- the Secretaries-General of the Government and the Ministers,
- the Magistrates,
- the controllers of the State, and the inspectors of labor and education,
- the members of the Armed Forces and of the National Force of Security,

- Eligibility for first chamber

- Replacement of legislators

Article 47

An organic law determines the number of Deputies, their indemnities, the conditions of eligibility, the regime of ineligibilities and incompatibilities, the modalities of the ballot, and the conditions in which there is reason to organize new elections in case of vacancy of seats of Deputies.

The Constitutional Council decides in case of dispute concerning the regularity of the election of the Deputies and concerning their eligibility.

Article 48

Each Deputy is the representative of the Nation. Any imperative mandate is null.

An organic law may authorize, exceptionally, the delegation of the vote. In such case no one may receive the delegation of more than one mandate.

Article 49

The National Assembly is composed of the entirety of the representatives of the national community.

Article 50

The members of the National Assembly enjoy parliamentary immunity.

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

No Deputy may, during the time of the sessions, be prosecuted or arrested, in a criminal or correctional matter except in the case of flagrante delicto, without the authorization of the National Assembly.

No Deputy may, outside the sessions, be arrested without the authorization of the Bureau of the National Assembly, except in the case of flagrante delicto, of authorized prosecution or of definitive condemnation.

The detention or the prosecution of a Deputy is suspended if the National Assembly requires it.

Article 51

The National Assembly meets of plain right in two ordinary sittings per year. The first ordinary commences on March 1 and the second begins on October 1.

The duration of each ordinary session is of four months. The Bureau of the National Assembly may however decide to prolong it by a period that shall not exceed fifteen days to permit the consideration of proposals of law of parliamentary origin which could not be taken up in the course of the Ordinary Session.

The sittings of the National Assembly are public.

The complete record of the debates in public sittings is published in the Journal Officiel.

However, the National Assembly can meet in closed sittings according to the modalities provided for by the Internal Regulations.

The Law of Finance of the year is considered in the course of the second ordinary Session, called the Budgetary Session.

Article 52

The National Assembly can be reunited in extraordinary session on a specific agenda at the demand of the President of the Republic, of the President of the National Assembly or at the demand of the absolute majority of the Deputies.

The duration of an extraordinary session may not exceed fifteen days. The National Assembly recesses once the agenda is exhausted.

- Immunity of legislators

- Public or private sessions

- Length of legislative sessions

- Publication of deliberations

- Finance bills

- Length of legislative sessions
- Extraordinary legislative sessions

- Leader of first chamber

Article 53

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

Article 54

The National Assembly establishes its internal regulations. The internal regulations determine:

- the composition, and the rules of functioning of the Bureau as well as the powers and prerogatives of its President;
- the number, mode of designation, the composition, the role and the competence of its permanent commissions, as well as that of those which are special and temporary;
- the creation of parliamentary commissions of inquiry within the framework of the control of the action of the Government;
- the procedure of interpellation of the Government;
- the regime of discipline of the Deputies;
- the organization of the administrative services placed under the authority of the President of the National Assembly, assisted by an Administrative Secretary General;
- the different modes of the ballot, with the exception of those expressly specified in this Constitution;
- in a general manner, all the rules having for their object the functioning of the National Assembly within the framework of its constitutional competence.

TITLE V. OF THE RELATIONS BETWEEN THE LEGISLATIVE POWER AND THE EXECUTIVE POWER

Article 55

The National Assembly exercises the legislative power. It alone votes the law by simple majority, under reserve of the provisions of Article 67.

Article 56

The laws establishes the rules concerning:

- the organization of the public powers;
- the distribution of the competences between the State and the local collectivities as well as the creation of offices, of public establishments, and of national companies or enterprises;
- the enjoyment and the exercise of the civil and civic rights, nationality, the estate and the security of persons, the organization of the family, the regime of property and of inheritance and of the law of obligations;
- the fundamental guarantees accorded to the citizens for the exercise of their public freedoms and the requirements imposed by the national defense;

- the electoral regime;
- the fundamental guarantees accorded to the civil and military functionaries;
- the determination of crimes and misdemeanors and the penalties applicable to them, the criminal procedure, amnesty, the judicial organization, the status of judges, of the ministerial officers and of the juridical and judiciary professions and the organization of the prison regime;
- the general principles of education;
- the fundamental principles of the right to work, of the syndical right and of social security;
- the basis, rates and the modalities of collecting taxes of any nature;
- the regime of issuance of money, of credit, and of banks and of insurance.

Article 57

The matters other than those that are of the domain of the law by virtue of this Constitution belong to the regulatory power.

The texts of legislative form intervening in these matters can be modified by decree if the Constitutional Council, at the demand of the President of the Republic, declares that they have a regulatory character by virtue of the preceding paragraph.

- Constitutional court powers

- Initiation of general legislation

Article 58

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

The President of the Republic and the Deputies have the right of amendment.

Article 59

The proposals, Bills and amendments which are not of the domain of the law are irreceivable. The irreceivability is declared by the President of the National Assembly after the deliberation of the Bureau.

In case of dispute, the Constitutional Council, referred to the matter by the President of the National Assembly or the President of the Republic decides in a time of twenty days.

- Constitutional court powers

- Legislative oversight of the executive

Article 60

The Government periodically renders account on its activity action and its management to the National Assembly.

The National Assembly has for the exercise of its rights of information and control, the following means:

1. oral or written questions;
2. parliamentary commissions of inquiry;
3. interpellation of the Government;
4. the annual debate on the state of the Nation.

One sitting per two weeks is reserved by priority to the questions of the Deputies to the members of the Government.

The procedure of interpellation of the Government or of one or of several Ministers may only intervene at the initiative of at least ten Deputies. It is made the object of a special

sitting, on a date established by the Bureau of the Assembly.

The debate can be followed by a vote of the Assembly on the resolution proposed by the authors of the interpellation.

At the opening of each session, the Prime Minister makes a report to the Assembly on the situation of the country, the achievements of the Government and the grand orientations of the governmental policy. His presentation is followed by a debate.

The internal regulations of the National Assembly specify the conditions for the implementation of these different procedures.

Article 61

- Power to declare/approve war

The declaration of war is authorized by the National Assembly meeting specially to this effect. The President of the Republic informs the Nation of it by a message.

- Emergency provisions

The state of siege and the state of urgency are decreed in the Council of Ministers.

- Emergency provisions

The prolongation of the state of siege or the state of urgency beyond fifteen days may not be authorized without the prior consent of the National Assembly.

- Treaty ratification

Article 62

- International law
- International organizations

The peace treaties, the commercial treaties, the treaties or agreements concerning international organizations, the which treaties engage the finances of the State, those which concern the status of persons, and those which involve cession, exchange or acquisition of territory may only be ratified or approved by virtue of a law.

- International law

The ratification or the approval of an international engagement containing a clause contrary to the provisions of this Constitution may intervene only after the revision of it.

- Secession of territory
- Referenda
- Accession of territory

No cession, no acquisition of territory is valid without the consent of the people who decide by means of referendum.

Article 63

The President of the Republic can, on his demand, be heard by the National Assembly or address messages to it. These communications do not give rise to any debate in his presence.

Article 64

The members of the Government have access to the sittings of the National Assembly. They are heard at the demand of a Deputy, of a Commission or at their own demand.

- Finance bills

Article 65

The Laws of Finance determine the receipts and the expenditures of the State.

The regulatory laws control the execution of the Laws of Finance, under reserve of subsequent auditing of the accounts of the Nation by the Court of Accounts.

- Economic plans

The program laws establish the objectives of the economic and social action of the State.

- Supermajority required for legislation
- Constitutional court powers

Article 66

The laws to which Constitution confers the character of organic laws may only be adopted with the absolute majority of members of the National Assembly, and may only be promulgated after declaration by the Constitutional Council of their conformity with the Constitution.

Article 67

The agenda of the Assembly is established by the Conference of Presidents composed of the President of the Assembly, of the Vice Presidents of the Bureau, of the Presidents of the Parliamentary Groups, of the Presidents of the Commissions and of the Rapporteur-General of the Commission of Finance.

A representative of the Government participates in the work of this Conference.

Only texts arising from its competence by virtue of Article 57 may be included in the agenda of the National Assembly.

The agenda includes, by priority and in the order that the Government has established, the discussion of the Bills of law and of the proposals of law that it has accepted. It may not be modified.

Urgency is of right when it is demanded by the Government.

Article 68

The proposals of law and amendments which would have for an effect, if they were adopted, either a diminution of the public resources, or an increase of the public obligations without a concurrent reduction of other expenses or creation of new receipts of equal amount, are irreceivable.

Article 69

The Law of Finance determines the resources and the obligations of the State.

The National Assembly is referred to the matter of the Bill of the Law of Finance of the year (Budget of the State) from the opening of the ordinary session preceding the budgetary period and in any case before 15 November. The Bill of the Law of Finance must provide for the receipts necessary for complete coverage of the expenditures.

The Bill of the Law of Finance is voted at the latest in first reading within the time of thirty-five days following its deposit. In case of rejection or amendment, a second reading can be demanded.

If the budget is not voted before 1 January, the President of the Republic is authorized to re-implement the budget for the previous year by provisional twelfths.

The budget may only be adopted in plenary session.

TITLE VI. INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS

Article. 70

The President of the Republic negotiates and approves the treaties and international conventions, which are submitted to the ratification of the National Assembly.

The treaties or agreements regularly ratified have, on their publication, an authority superior to that of the laws under reserve, for each agreement or treaty, to its application by the other party and of its conformity with the relevant provisions of the law of treaties.

Without prejudice to the previous paragraph, the ratification or the approval of an international engagement containing a clause contrary to the relevant provisions of the Constitution may intervene only after the revision of it.

- Finance bills
- Budget bills

- Foreign affairs representative

- Legal status of treaties

- Treaty ratification

TITLE VII. OF THE JUDICIAL POWER

Article 71

- Judicial independence

The judicial power is independent of the legislative power and the executive power. It is exercised by the Supreme Court, the Court of Accounts and the other Courts and Tribunals.

The Court of Accounts is the jurisdiction of control of the public finances.

Article 72

The judicial power sees to respect for the rights and freedoms defined by this Constitution.

The judge is only obedient to the law. Within the framework of his mission, he is protected against any form of pressure of such nature as to be prejudicial to his free arbitration.

The presiding magistrates are not removable.

- Establishment of judicial council

Article 73

The President of the Republic is the guarantor of the independence of the magistrature. He is assisted by the Superior Council of the Magistrature, which he presides over.

- Ordinary court selection

The Superior Council of the Magistrature sees to the management of the career of the magistrates and gives its opinion on any question concerning the independence of the magistrature. It decides as a council of discipline concerning the magistrates.

An organic law establishes the composition, the functioning and the attributions of the Superior Council of the Magistrature as well as the status of the magistrates, with respect for the principles contained in this Constitution.

- Protection from false imprisonment

Article 74

No one may be arbitrarily detained. The judicial power, guardian of individual liberty, assures the respect for this principle under the conditions provided by the law.

- Establishment of constitutional court

TITLE VIII. OF THE CONSTITUTIONAL COUNCIL

- Constitutional interpretation

Article 75

The Constitutional Council sees to respect for the constitutional principles. It controls the constitutionality of the laws.

It guarantees the fundamental rights of the human person and the public freedoms.

It is the regulatory organ of the functioning of the institutions and of the activity of the public powers.

Article 76

- Constitutional court term length
- Constitutional court selection
- Constitutional court term limits

The Constitutional Council consists of six members having a mandate lasting eight years and which is not renewable. They are designated as follows:

- two appointed by the President of the Republic;
- two appointed by the President of the National Assembly;
- two appointed by the Superior Council of the Magistrature.

It is renewed by half every four years.

The President of the Constitutional Council is appointed by the President of the Republic from among its members. He has the deciding vote in case of a tie.

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

The members of the Constitutional Council enjoy the immunity accorded to the members of the National Assembly.

The members of the Constitutional Council must be thirty years of age at least and be chosen principally from among the jurists of experience.

- Eligibility for const court judges
- Min age of const court judges

- Constitutional court powers

Article 77

The Constitutional Council sees to the regularity of all the elections and of the operations of referendum and proclaims the results of them. It examines the complaints and decides on them.

The Constitutional Council is referred to the matter in case of dispute concerning the validity of an election by any candidate or any political party.

- Constitutionality of legislation

Article 78

The organic laws, before their promulgation, and the internal regulations of the National Assembly, before their implementation, must be submitted to the Constitutional Council which decides on their conformity with the Constitution.

- Constitutional court powers

Article 79

To the same end, the laws may be deferred to the Constitutional Council before their promulgation by the President of the Republic, the President of the National Assembly or ten Deputies.

The referral to the matter of the Constitutional Council by the President of the Republic must intervene within the six days following the transmission that is made to him of the law definitively adopted; the referral to the matter by the President of the National Assembly or the Deputies must intervene within the time of six days from the definitive adoption of the law.

In the cases provided for by the two preceding paragraphs, the Constitutional Council must decide within a time of one month. However, at the demand of the President of the Republic, if there is urgency, this period is reduced to eight days.

In these same cases, the referral to the matter of the Constitutional Council suspends the time of promulgation.

- Constitutionality of legislation

A provision declared unconstitutional may not be promulgated or implemented.

- Constitutionality of legislation
- Constitutional court powers

Article 80

The provisions of law which concern the fundamental rights recognized to any person by the Constitution may be submitted to the Constitutional Council by way of pleadings if it involves an instance in course before a jurisdiction.

The pleadings of unconstitutionality may be raised by any plaintiff before any jurisdiction.

The jurisdiction referred to the matter must then suspend its decision and transmit the matter to the Supreme Court. The Supreme Court has a time of one month to reject the exception if it is not founded on a serious issue or, in the contrary case, refers the matter to the Constitutional Council, which decides in the time of one month.

A provision judged unconstitutional on the basis of this article ceases to be applicable and will no longer be applied in procedures.

Article 81

The decisions of the Constitutional Council establish authority concerning the matter judged. They are not susceptible to any recourse.

They are imposed on the public powers, on all the administrative and jurisdictional authorities as well as on all physical or moral persons.

Article 82

An organic law determines the rules of organization and of functioning of the Constitutional Council as well as the procedure to be followed before it. This organic law equally establishes the modalities of application of Article 80.

TITLE IX. OF THE HIGH COURT OF JUSTICE

Article 83

A High Court of Justice is instituted.

It is composed of members designated by the National Assembly at each general renewal. It elects its President from among its members.

An organic law establishes its composition, the rules of its functioning as well as the procedure applicable before it.

Article 84

The High Court of Justice is competent to judge the President of the Republic and the Ministers accused before it by the National Assembly.

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. The members of the Government are criminally responsible for the acts accomplished in the exercise of their functions and qualified as crimes or misdemeanors at the moment they were committed.

The accusation is voted by public ballot with the majority of two-thirds of the Deputies composing the National Assembly.

- Supreme court selection

- Supreme court powers

- Head of government immunity
- Head of state immunity

- Supermajority required for legislation

- Principle of no punishment without law
- Protection from ex post facto laws

The High Court of Justice is bound by the definition of crimes and misdemeanors, as well as by the determination of the resultant penalties, specified in the criminal laws in force at the time of the acts cited in the proceedings.

TITLE X. OF THE TERRITORIAL COLLECTIVITIES

Article 85

The territorial collectivities are moral persons of public law which enjoy administrative and financial autonomy.

The territorial collectivities are the regions, the communes and the other territorial collectivities of specific status.

Article 86

The territorial collectivities are administered freely by councils with a view to development and of promotion of the local and regional interests.

Article 87

The mission, the organization, the functioning and the financing regime of the territorial collectivities are determined by an organic law.

Article 88

In the territorial collectivities, the delegate of government has the responsibility for the national interests, of administrative control a posteriori and of respect for the laws.

TITLE XI. OF THE MEDIATOR OF THE REPUBLIC

- Ombudsman

Article 89

An organ denominated the Mediator of the Republic is constituted.

He is appointed by the President of the Republic for a time of five (5) years which is not renewable.

He is not removable. He enjoys immunity in the exercise of his functions.

Article 90

The status, the attributions, the organization and the functioning of the Mediator of the Republic are established by an organic law.

TITLE XII. OF THE REVISION OF THE CONSTITUTION

- Constitution amendment procedure

Article 91

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

For it to be discussed, any parliamentary proposal for revision must be signed by one-third at least of the members of the National Assembly.

The Bill or proposal of revision must be voted with the majority of members of the National Assembly, and only becomes definitive after having been approved by referendum with the simple majority of the suffrage expressed.

- Referenda
- Supermajority required for legislation

Nevertheless, the referendum procedure may be avoided on the decision of the President of the Republic; in this case, the Bill or proposal of revision is only approved if it is adopted with the majority of two-thirds of the members composing the National Assembly.

- Unamendable provisions

Article 92

No procedure of revision may be undertaken if it questions the existence of the State or infringes the integrity of the territory, of the republican form of the government or of the pluralist character of Djiboutian democracy.

- Transitional provisions

TITLE XIII. OF FINAL AND TRANSITORY PROVISIONS

- Referenda

Article 93

This Constitution will be submitted to referendum. It will be registered and published, in French and in Arabic, in the Official Gazette of the Republic of Djibouti, the text in French will prevail.

Article 94

The present Constitution will enter into force and will be executed as the Constitution of the Republic within the thirty days of its approval by referendum.

The establishment of the institutions provided for in this Constitution shall begin at the latest two months after its approval, and shall be completed eight months after that.

Article 95

The provisions necessary for application of this Constitution shall be the object of laws voted by the National Assembly.

Article 96

The legislation in force remains applicable to the extent that it is not contrary to this Constitution or where it is not the object of a specific abrogation.

Article 97

The authorities established in the Republic of Djibouti shall continue to exercise their functions and the current institutions are maintained until the establishment of the new authorities and institutions.

The Senate shall be instituted when all the conditions necessary for its creation are met.

The provisions for, the organization and the functioning of the Senate shall be established by an organic law.

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