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# Gabon's Constitution of 1991 with Amendments through 1997

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Translated by Gisbert H. Flanz

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

## Preamble

---

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

- International human rights treaties

Solemnly affirms its adherence to the rights of man and the fundamental liberties such as they result from the Declaration of the Rights of Man and the Citizen of 1789 and the Universal Declaration of Human Rights of 1948, consecrated by the African Charter of the Rights of Man and the Rights of Peoples of 1981, and by the National Charter of Liberties of 1990;

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

In virtue of these principles and of those of the sovereignty of the people, it adopts the present Constitution.

## PRELIMINARY TITLE. Fundamental Rights and Principles

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- Inalienable rights

### Article 1

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

- Prohibition of torture
- Right to development of personality
- Prohibition of cruel treatment
- Freedom of religion
- Freedom of expression
- Freedom of opinion/thought/conscience
- Freedom of movement

1. each citizen has the right to the free development of his person, in respect of the rights of others and public order. No one will be humiliated, mistreated, or tortured, especially when he is in a state of arrest or imprisonment;
2. the freedom of conscience, thought, opinion, expression, communication, the free practice of religion, are guaranteed to all, under the reservation of respect of public order;
3. the freedom to come and go in the interior of the territory of the Gabonese Republic, to exit it and to reenter it, are guaranteed to all Gabonese citizens, under the reservation of respect of public order;
4. the right to a defense, in the judicial process, are guaranteed to all; preventative detention cannot exceed the time allocated by the law;
5. the secrecy of correspondence, postal, telegraphic, telephonic, and telematic communications is inviolable. Restriction of this inviolability can only be ordered in application of the law, for reasons of public order and the security of the State;
6. the limits of the usage of information systems for the safeguard of Man, the personal and familial intimacy of persons, and the full exercise of their rights, are fixed by law;
7. each citizen has the right to work and the right to obtain employment. No one can be impaired in his work by reason of his origins, his sex, his race, his opinions;
8. the State, according to its possibilities, guarantees to all, notably to the child, the mother, the handicapped, to aged workers and to the elderly, the protection of

- Right to counsel

- Telecommunications
- Right to privacy

- Right to privacy

- Equality regardless of race
- Equality regardless of gender
- Right to work
- State support for the elderly
- Equality regardless of creed or belief
- State support for the disabled

- Right to rest and leisure

- International law
- Protection from expropriation
- Right to own property
- Freedom of movement
- Regulation of evidence collection
- Right to privacy
- Right to form political parties
- Freedom of religion
- Right to join trade unions
- Restrictions on political parties
- Regulation of political parties
- Freedom of association
- Prohibited political parties
- Equality regardless of religion
- Equality regardless of race
- Right to found a family
- Regulation of marriage
- Census
- Rights of children
- Rights of children
- Access to higher education
- Right to culture
- Separation of church and state
- Free education

8. health, social security, a preserved natural environment, rest and leisure;
9. every Gabonese citizen sojourning or residing abroad benefits from the protection and the assistance of the State, under conditions fixed by national law or international accords;
10. every person, individually as well as collectively, has the right to property. No one can be deprived of his property, if it is not when public necessity, legally declared, urges it and under the condition of a just and prior compensation; however, the expropriations of immovable engaged in for the cause of public utility, for the insufficiency or absence of productive use, and regarding unregistered properties, are regulated by law;
11. every Gabonese has the right to freely fix his domicile or residence in no matter what area of the national territory and to there exercise all activities, under the reservation of respect of public order and of the law;
12. the domicile is inviolable. It can only be ordered searched by a judge or by other authorities designated by the law. Searches can only be executed in the forms provided for herein. Measures touching upon the inviolability of the domicile or limiting it can only be taken in order to prepare for collective dangers or to protect public order from imminent menaces, notably in order to fight against the risks of epidemic or in order to protect persons in danger;
13. the right to form associations, political parties or formations, syndicates, societies, establishments for social interests as well as religious communities, is guaranteed to all under conditions fixed by the law; religious communities conduct and administrate their affairs in an independent manner, under reserve of respect of the principles of national sovereignty, public order and the preservation of the moral and mental integrity of the individual.  
  
Political associations, parties or formations, syndicates, societies, establishments for social interests as well as religious communities of which the activities are contrary to law, or to the good relations of ethnic groups or ensembles may be prohibited according to the terms of the law.  
  
Any act of racial, ethnic, or religious discrimination as well as any regionalist propaganda capable of touching the internal or external security of the State or the integrity of the Republic shall be punished by law;
14. the family is the basic natural unit of society; marriage is the legitimate support of it.  
  
They are placed under the particular protection of the State;
15. the State has the duty to organize a general census of the population every ten years;
16. the support to be given to children and their education constitute, for parents, a natural right and duty which they exercise under the surveillance and with the aid of the State and public entities. Parents have the right, in the area of scholarly obligation, to decide upon the moral and religious education of their children. The children have, vis-a-vis the State, the same rights concerning assistance as well as their physical, intellectual and moral development;
17. the protection of the young against exploitation and against moral, intellectual and physical abandonment, is an obligation for the State and public entities;
18. the State guarantees equal access of the child and the adult to instruction, to professional education and to culture;
19. the State has the duty to organize public education on the principle of religious neutrality and, according to possibilities, on the basis of gratuity; the granting of diplomas is the prerogative of the State;  
  
However, freedom of education is guaranteed to all. Any person may open a preschool, primary, secondary, superior establishment or a university, under conditions fixed by the law.

19. The law establishes the conditions of participation of the State and public entities in the financial duties of private establishments of education with recognized public utility.

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

The law establishes the conditions of operation of private educational institutions taking into account their specificity;

20. the Nation proclaims the solidarity and equality of all before the public charges; everyone must participate, in proportion to his resources, to the financing of public expenses.

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

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

22. the defense of the nation and the safeguard of public order shall be essentially assured by the national defense and security forces. In consequence, no person, no group of persons may constitute itself in private militia or paramilitary grouping; the national defense and security forces are at the service of the State.

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

23. no one can be arbitrarily detained;

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

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

Judicial authority, the guardian of individual liberty, assures the respect of these principles within the periods fixed by the law.

## TITLE I. The Republic and Sovereignty

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### Article 2

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

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

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

The national anthem is "La Concorde".

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

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

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

- Reference to fraternity/solidarity
- Duty to pay taxes

- Duty to serve in the military
- Duty to obey the constitution

- Protection from unjustified restraint
- Right to pre-trial release
- Protection from unjustified restraint

- Right to counsel
- Presumption of innocence in trials

- Right to speedy trial

- Type of government envisioned
- Separation of church and state

- Equality regardless of religion
- General guarantee of equality
- Equality regardless of origin
- Equality regardless of gender
- Equality regardless of race
- Equality regardless of creed or belief

- National anthem

- National motto

- National motto

- Protection of language use
- Official or national languages

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

- National capital

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

The national holiday is celebrated on August 17.

### Article 3

- Referenda

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

No faction of the people, no group, no individual can attribute to itself the exercise of the national sovereignty.

### Article 4

- Secret ballot
- Claim of universal suffrage

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

- Restrictions on voting

Under the conditions provided by law, all Gabonese of both sexes, 18 years of age, possessing their civil and political rights are electors.

Under the conditions provided by the Constitution and by the law, all Gabonese of both sexes, possessing their civil and political rights are eligible.

### Article 5

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

- Restrictions on political parties

### Article 6

Parties and political groupings concur in the expression of suffrage. They form themselves and exercise their activities freely, in the area fixed by law, according to the principles of multipartism. They must respect the Constitution and the laws of the Republic.

### Article 7

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

## TITLE II. Executive Power

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### I. THE PRESIDENT OF THE REPUBLIC

#### Article 8

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

- Foreign affairs representative
- International law

He is the guarantor of national independence, of territorial integrity, of respect of accords and treaties.

He determines, in concert with the Government, the policy of the Nation.

- Name/structure of executive(s)

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

- Head of state selection

### Article 9

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

The President of the Republic is elected by an absolute majority of the votes cast. If this is not obtained in the first round, there shall be a second round, the second Sunday following the proclamation of the results by the Constitutional Court.

Only the two candidates having received the largest number of votes in the first round can be presented in the second round.

In the second round, the election is obtained by absolute majority of the votes cast.

- Head of state selection

### Article 10

If, before the first round, one of the candidates dies or finds himself incapacitated, the Constitutional Court shall pronounce the results of the election.

In the case of death or incapacity of one of the two most favored candidates in the first round before eventual withdrawals, the Constitutional Court shall declare that a new set of elections must proceed; it shall be the same in the case of the death or incapacitation of one of the two candidates remaining in competition in the second round.

The Constitutional Court may extend the periods provided, in conformity with Article 11 hereafter, as long as the balloting does not take place more than thirty five days after the date of the decision of the Constitutional Court. If the application of the provisions of the present article have for effect the delay of the election to a date after the expiration of the mandate of the incumbent President, he shall continue to function until the election of his successor.

- Minimum age of head of state

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

- Eligibility for head of state

Any person having acquired Gabonese nationality by naturalization cannot present himself as a candidate for the Presidency of the Republic. Only persons whose immediate forebears have lived in Gabon for four generations without interruption may be candidates for the Presidency of the Republic.

The means of application of the present article are fixed by an organic law.

- Head of state term length

### Article 11

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

- Head of state selection

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

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

- Extraordinary legislative sessions
- Head of state decree power
- Dismissal of the legislature
- Head of state powers

If the incumbent President of the Republic presents himself as a candidate, the National Assembly shall not be dissolved. He shall not, in addition, from the moment of the official announcement of his candidacy until the election, exercise his power to legislate by ordinance. In the case of necessity, the National Assembly shall be convened in extraordinary session.

- Head of state term length

## Article 11a

The taking of the oath marks the beginning of the presidential mandate. It cannot take place before the decision of the Constitutional Court concerning any contentious electoral matter which would have been brought before it. The decision of the Constitutional Court must intervene within a maximum of one month starting from the fifteenth day after the proclamation of the results of the election.

If there is no contention, the President of the Republic elect or reelect takes his oath upon expiration of the mandate of the current President.

If there is contention, the current President of the Republic remains in function until the decision of the Constitutional Court.

- Head of state replacement

In the case of death or permanent incapacity of a sitting President of the Republic who has not been reelected before the end of his mandate, the President elect immediately takes the oath, if there is no contention. In the case of contention, the interim is assured according to the provisions of Article 13, below.

- Head of state replacement

The death or permanent incapacity of the President of the Republic elect or reelect, intervening within the period between the proclamation of the results [and] of the expiration of the mandate of the current president or the decision of the Constitutional Court in case of contention, leads to a rerun of the whole electoral operation according to the conditions and time periods provided in Article 10 above. In this case, as soon as the vacancy is established, the functions of the President of the Republic are assured according to the provisions of the following Article 13.

- Dismissal of the legislature
- Constitution amendment procedure

Within the period intervening between the proclamation of the results of the presidential election and the beginning of the new presidential mandate, the National Assembly may not be dissolved, neither may a revision of the Constitution started or achieved.

- Oaths to abide by constitution

## Article 12

When he takes office, the President of the Republic solemnly takes the below oath in the presence of Parliament and the Constitutional Court, placing his left hand placed upon the Constitution and raising his right hand before the national flag:

"I swear to consecrate all my efforts for the good of the Gabonese People in order to ensure its well-being, to protect it from all harm, to respect and defend the Constitution and the rule of law, to conscientiously fulfill the duties of my charge, and to be just toward all."

- Head of state replacement

## Article 13

- Legislative committees
- Standing committees
- Constitutional court powers

The government submits cases of definitive incapacitation of the President of the Republic to the Constitutional Court. A majority of the Constitutional Court is required to establish the definitive incapacitation of the President of the Republic. If a majority is not obtained in the Constitutional Court, a majority of the members of the bureaus of Parliament meeting jointly may certify the definitive incapacitation of the President of the Republic. If there is a vacancy of the Presidency of the Republic or duly established definitive incapacitation of the President of the Republic, the functions of the President of the Republic, with the exception of those provided for in Articles 18, 19, and 116, 1st paragraph, shall be provisionally exercised by the President of the Senate or, if he is incapacitated in his turn and this is duly ascertained by the Constitutional Court summoned in the same conditions as above, by the First Vice-President of the Senate.

- Eligibility for head of state

The interim President of the Republic seated according to the conditions of the present article may not present his candidacy in the following presidential election.

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

## Article 14

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

- Deputy executive

## Article 14a

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

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

- Deputy executive

## Article 14b

The functions of Vice-President of the Republic are not compatible with the exercise of any other public function or private activity of lucrative nature.

- Oaths to abide by constitution

## Article 14c

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

"I swear to respect the Constitution and the State of law, to fulfill the duties of my function conscientiously with the strict respect for its obligations of loyalty and confidentiality towards the Chief of State"

- Deputy executive

## Article 14d

The Vice-President of the Republic acts for the President of the Republic in the functions which the latter delegates to him.

The modalities of application of the present article are defined by an organic law.

- Deputy executive

## Article 14e

The functions of Vice-President of the Republic come to an end upon proclamation of the presidential election by the Constitutional Court, or upon vacancy of the Presidency of the Republic for whatever reason or of the definitive incapacity of the President of the Republic.

## Article 15

The President of the Republic names the Prime Minister.

The President ends the Prime Minister's functions, upon his own initiative, or upon the presentation by the Prime Minister of the resignation of the Government, or following a vote of defiance or the adoption of a motion of censure by the National Assembly.

Upon the proposal of the Prime Minister, he names the other members of the Government and ends their functions.

- Head of government selection

- Head of government removal
- Cabinet removal

- Cabinet removal
- Cabinet selection

- Cabinet selection
- Head of state powers

- Head of state powers

- Deputy executive

## Article 16

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

The Vice-President is a member of it by right. He substitutes for the President of the Republic if necessary upon an express appointment [habilitation] and for a fixed period of time

- Approval or veto of general legislation

## Article 17

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

- Veto override procedure

The President of the Republic may, during the period of promulgation, demand of Parliament a new deliberation on the law or on certain articles. This new deliberation cannot be refused. The text thus submitted to a second deliberation is adopted by a two-thirds majority of its members, either in its original form, or after modification. The President of the Republic promulgates it within the time limits fixed above.

- Constitutionality of legislation

Upon default of promulgation of the law by the President of the Republic within the conditions and delays provided above, he can refer the text to the Constitutional Court.

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

- Referenda

## Article 18

At his own initiative or upon proposal by the Government or an absolute majority of the members of the National Assembly, the president of the Republic may submit to referendum during legislative sessions any bill of law touching the application of the principles contained in the Preamble or Title I of the Constitution and touching directly or indirectly the operation of institutions.

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

- Dismissal of the legislature

## Article 19

The President of the Republic may, after consultation with the Prime Minister and the Presidents of the two Chambers of the Parliament pronounce the dissolution of the National Assembly.

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

General elections take place at least thirty days and at most forty five days, after publication of the decree enacting dissolution.

- Extraordinary legislative sessions

The National Assembly convenes by right on the second Tuesday which follows its election. If this meeting takes place outside the periods provided for ordinary sessions, a session shall open by right for a period of fifteen days.

- Selection of active-duty commanders

## Article 20

The President of the Republic makes appointments in the Council of Ministers to high civil and military offices of the State, in particular, Ambassadors and Extraordinary Envoys as well as superior and general military officers.

An organic law defines the system of accession to these positions.

- Head of state powers

## Article 21

The President of the Republic accredits Ambassadors and Extraordinary Envoys before foreign powers and international organizations. Ambassadors and Extraordinary Envoys are accredited before him.

- Designation of commander in chief

## Article 22

The President of the Republic is the Supreme Chief of the Armed Forces and of Security. He presides over the High Councils and Committees of national defense.

- Head of government powers

In case of necessity he is substituted by the Prime Minister, upon an express appointment and for a fixed period of time.

- Power to pardon

### Article 23

The President of the Republic has the right of pardon.

- Head of state powers
- Extraordinary legislative sessions

### Article 24

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

- Emergency provisions
- Standing committees

### Article 25

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

- Emergency provisions

### Article 26

When the institutions of the Republic, independence or the superior interests of the nation, its territorial integrity or the execution of its international engagements are menaced in a grave and immediate manner and the regular operation of constitutional public powers is interrupted, the President of the Republic takes by ordinance, during the intersessions, with the least possible delay, measures necessitated by the circumstances, following consultation of the National Assembly and the Constitutional Court.

He informs the nation of this by a message.

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

The National Assembly cannot be dissolved, nor revision of the Constitution be commenced or achieved.

- Powers of cabinet
- Head of government powers

### Article 27

The acts of the President of the Republic other than those specified in Articles 15 paragraph 1, 17 paragraphs 1,2, and 3, 18, 19, 23, 89, 98, and 116 are countersigned by the Prime Minister and the members of the Government in charge of their execution.

## II. THE GOVERNMENT

- Powers of cabinet
- Head of government powers

### Article 28

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

It conducts, to this effect, the administration of the Armed and Security Forces.

- Cabinet removal

The Government is responsible before the President of the Republic and the National Assembly, under conditions and procedures provided by the present Constitution.

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

### Article 28a

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

- Name/structure of executive(s)
- Selection of active-duty commanders
- Head of government powers

## Article 29

The Prime Minister directs the action of the Government. He ensures the execution of the laws. Under reserve of the provision of the above-mentioned Article 20, he exercises the regulatory power and appoints civil and military positions of the State. He substitutes for the President of the Republic in the above mentioned cases. He may delegate certain of his powers to other members of the Government.

- Head of government replacement

The interim of the Prime Minister is assured by a member of the Government designated by a decree of the President of the Republic, in conformity with the order of nomination of the decree fixing the composition of the Government.

- Head of government replacement

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

- Powers of cabinet

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

- Emergency provisions
- Powers of cabinet

## Article 29a

The Prime Minister can, when the circumstances require it, after deliberation of the Council of Ministers and consultation with the Presidents of the Chambers of the Parliament, to proclaim by decree the state of watch [mise en garde], according to conditions determined by law.

- Standing committees

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

The extension of the state of watch or the state of alert beyond twenty-one days is authorized by the Parliament.

- Constitutionality of legislation

## Article 30

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

- Minimum age of head of government
- Eligibility for cabinet
- Head of government's role in the legislature

## Article 31

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

The Prime Minister is the Head of the Government.

The members of the Government are chosen both from within the National Assembly and outside of it. They must be at least 30 years of age, and possess all of their civil and political rights.

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

- Eligibility for cabinet
- Outside professions of legislators

## Article 32

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

An organic law establishes the treatment and the advantages accorded to members of the Government and enumerate their other public functions and private activities of which the exercise is incompatible with their functions.

- Cabinet removal

## Article 33

The members of the Government shall be politically cohesive. They are penally responsible for the crimes and misdemeanors committed in the exercise of their functions.

- Head of government term length

## Article 34

The functions of the Government come to an end upon taking the oath by the President of the Republic, and upon proclamation of the results of the legislative elections by the Constitutional Court.

In case of resignation, the Government ensures the prompt handling of current affairs until the constitution of a new Government.

# TITLE III. Legislative Power

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- Structure of legislative chamber(s)
- First chamber selection
- Second chamber selection
- Minimum age for second chamber
- Term length of second chamber
- Term length for first chamber

## Article 35

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

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

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

The Chambers of the Parliament are completely renewed at the end of their mandate.

- Electoral districts

No division [decoupage] of electoral districts may occur within the year preceding the normal date of renewing of each of the Chambers.

- Legislative oversight of the executive

## Article 36

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

- First chamber selection
- Minimum age for first chamber
- Outside professions of legislators
- Second chamber selection
- Compensation of legislators
- Eligibility for second chamber
- Eligibility for first chamber

## Article 37

An organic law determines, for each of the Chambers, the number of Parliamentarians, their indemnity, the forms and the conditions of their election as well as the system of ineligibilities and incompatibilities.

It equally determines the conditions according to which the persons called to ensure in the case of vacancy of a seat, the replacement of Parliamentarians until the renewal of the concerned Chamber are elected, as well as the system of ineligibilities and incompatibilities.

- Replacement of legislators

- Immunity of legislators

## Article 38

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

Any member of Parliament may, during sessions, only be prosecuted, investigated, arrested for a criminal, correctional or simple police matter with the authorization of the Bureau of the concerned Chamber, except in flagrante delicto or if there is a definitive condemnation.

- Standing committees

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

## Article 39

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

The regulations of each Chamber exceptionally authorize the delegation of the vote. No one can receive the delegation of more than one mandate.

- Leader of second chamber
- Standing committees
- Leader of first chamber

## Article 40

Each Chamber of the Parliament meets by right on the first business day following the fifteenth day after its election. Its agenda then comprises exclusively the election of its President and of its Bureau.

The Presidents and the other members of the Bureaus of the National Assembly and the Senate are elected by their peers by secret ballot, for the whole duration of the legislature, according to the provisions of the regulations of the concerned Chamber.

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

- Length of legislative sessions

## Article 41

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

The first session opens on the first business day of March and end, at the latest on the last business day of June.

The second session opens on the first business day in September and end at the latest on the last business day of December.

- Emergency provisions

## Article 42

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

- Extraordinary legislative sessions

## Article 43

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

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

They cannot exceed a duration of fifteen days.

- Publication of deliberations
- Public or private sessions

## Article 44

The sessions of the Parliament are public. An integral account of the debates is published in the Journal of debates.

- Standing committees

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

Each Chamber of the Parliament may meet in closed session at the demand of the President of the Republic, the Prime Minister, or one-fifth of its members.

## Article 45

Each Chamber of the Parliament votes on its own regulations which enter into effect only after having been recognized as conforming with the Constitution by the Constitutional Court. Any ulterior modification is equally submitted to the latter.

## Article 46

Each Chamber of Parliament enjoys administrative and financial autonomy.

# TITLE IV. Relations Between Executive Power And Legislative Power

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## Article 47

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

- the exercise of fundamental rights and duties of citizens;
- the constraints imposed on Gabonese and on foreigners in their person and their goods, notably in view of public utility and national defense;
- the nationality, state and capacity of persons, matrimonial regimes, successions and gifts, status of foreigners and immigration;
- the organization of the civil state;
- any audiovisual, cinematographical or written communication;
- the conditions of the usage of information systems so that honor, personal and familial intimacy of citizens, as well as the full exercise of their rights shall be safeguarded;
- the electoral system of the National Assembly and local assemblies;
- the judicial organization, the creation of new orders of jurisdiction and the status of magistrates;
- the organization of ministerial and public offices, the professions of ministerial officers;
- the determination of crimes and misdemeanors as well as the penalties which are applicable to them, the penal procedure, the penitentiary and amnesty system;
- the state of readiness, state of emergency, state of alert and state of siege;
- the system of associations, parties, political groups, and syndicates;
- the tax base, the tax rate and the means of recovery of impositions of any nature, the system of currency regulation;
- the general status of the public function and particular statuses;
- the nationalization of enterprises and the transfer of ownership of enterprises of the public sector to the private sector;
- the creation or the suppression of autonomous public establishments and services;

- Right to transfer property
- Regulation of marriage
- Requirements for birthright citizenship

- Television

- Right to privacy

- Municipal government
- Second chamber selection
- First chamber selection

- Emergency provisions

- Ownership of natural resources
  - Right to culture
  - Reference to art
  - Protection of environment
  - Economic plans
  - Budget bills
  - Economic plans
- the general administrative and financial organization;
  - the creation, operation and free development of territorial units, their competencies, their resources and their tax base;
  - the conditions of participation of the State in the ownership of all societies and the control by these means of the development of these societies;
  - the administration of public goods, land use, forestry, mining and habitat;
  - the protection of the artistic, cultural and archeological patrimony;
  - the protection of nature and the environment;
  - the system of ownership, of real rights and of civil and commercial obligations;
  - the debts and financial engagements of the State;
  - the programs of economic and social action;
  - the conditions in which the laws of finance and the accounts of the Nation are presented and voted;
  - the laws of finance determining the resources and the obligations of the State under conditions provided for by an organic law;
  - the laws of a program fixing the objectives of the State in economic, social, cultural and national defense matters.

The law otherwise determines the fundamental principles:

- Right to work
  - Right to strike
  - Right to join trade unions
- of education;
  - of health;
  - of social security;
  - of the right to work;
  - of the right to syndicate and there comprising the exercise of the right to strike;
  - of mutuality and savings;
  - of the general organization of the national defense and of public security.

The provisions of the present article may be made more precise or more complete by an organic law.

- Balanced budget
- Budget bills

## Article 48

All resources and obligations of the State must, for each financial exercise, be evaluated and inscribed into the annual Bill of the Law of Finance filed by the Government before the National Assembly thirty (30) days at most after the opening of the second ordinary session.

If, at the end of the budgetary session, the Parliament adjourns without having passed a balanced budget, the Government shall be authorized to repromulgate by ordinance the preceding budget. This ordinance may in spite of this provide for, in case of necessity, any reduction of expenditures or increase in revenues. Upon the demand of the Prime Minister, Parliament is convoked in two weeks in extraordinary session for a new deliberation. If Parliament has not passed the balanced budget at the end of this extraordinary session, the budget shall be definitively established by ordinance taken in the Council of Ministers and signed by the President of the Republic.

The new revenues which may be created, if they consist of direct taxes and contributions or similar taxes, become effective the first of January.

The Court of Accounts assists the Parliament and the Government in the control of the execution of the Law of Finance. The bill of the law of regulation, established by the Government, accompanied by the general declaration of conformity and of general report of the Court of Accounts, must be filed before the Parliament at the latest at the beginning of the first ordinary session of the second year which follows the exercise of the execution of the budget concerned.

- Power to declare/approve war

## Article 49

A Declaration of War by the President of the Republic is authorized by the National Assembly by a two-thirds majority of its members.

- Emergency provisions

## Article 50

The extension of a state of urgency or of a state of siege, beyond fifteen days, is authorized by the National Assembly enacting by the absolute majority of its members.

- Head of state decree power
- Head of government decree power

## Article 51

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

These matters may, for the application of these decrees, be the object of administrative decisions taken by the Prime Minister or, upon delegation of the Prime Minister, by the ministers responsible or by the other administrative authorities habituated to making them.

- Emergency provisions
- Head of government decree power

## Article 52

The Government may, in case of emergency, for the execution of its program, demand of Parliament the authorization to be taken by ordinance during Parliamentary recess, measures which are normally of the domain of the law.

The ordinances are taken in the Council of Ministers, after the advice of the Administrative Chamber and signed by the President of the Republic. They become effective upon their publication.

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

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

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

Ordinances may be modified by another ordinance or by a law.

- Initiation of general legislation

## Article 53

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

- Organic laws

## Article 54

- Initiation of general legislation
- Standing committees

Bills of law are deliberated in the Council of Ministers, after the advice of the Administrative Court, and filed with the Bureau of one of the two Chambers of Parliament.

In the name of the Prime Minister, a member of the Government is charged, should the need arise, with describing their motives and conducting the discussion before the Chambers of Parliament.

- Organic laws

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

- Budget bills
- Constitution amendment procedure

The bills of the Law of Finance and the bills of revision of the Constitution are filed with the National Assembly first. The bills concerning the local collectivities are filed with the Senate first.

All proposals of law transmitted to the Government by the Parliament and which have been the object of an examination within a time period of sixty days are automatically [d'office] put to deliberation within the Parliament.

## Article 55

Members of the Government have the right of amendment. Proposals of law and amendments of Parliamentary origin are irreceivable when their adoption would have as a consequence, either a diminution of public revenues, or the creation or aggravation of a public charge without the allocation of corresponding revenues.

Amendments need not be deprived of all agreement with the text to which they correspond.

If the Government demands it, the concerned [saisir] Chamber pronounces by a single vote upon all or part of the text under discussion retaining only the amendments proposed or accepted by the Government.

## Article 56

If it appears, during the course of the legislative procedure, that a text or an amendment is not within the domain of the law, in the sense of Article 47 above, or exceeds the limits of legislative habilitation granted to the Government according to Article 52, the Prime Minister may declare it irreceivable. The President of the concerned Chamber at the demand of one-fifth of its members also may declare a bill irreceivable.

The disagreement is referred to the Constitutional Court, which must decide within a time period of eight days.

## Article 57

The agenda of the Parliament consists of the discussion of bills of law filed by the Government and proposals of law accepted by it.

- Legislative committees

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

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

## Article 58

The urgency of a vote of a law may be demanded either by the Government or by the members of Parliament by an absolute majority.

- Organic laws

The time period of fifteen days is shortened to eight days for urgent organic laws.

- Division of labor between chambers

## Article 58a

Any bill or proposal of law is examined successively by the two Chambers of Parliament with the view of adopting an identical text.

When, following a disagreement between the two Chambers, a bill or a proposal of law could not be adopted after one reading by each of the Chambers, the Prime Minister has the authority [faculte] to summon the meeting of a mixed commission of the two Chambers, charged with proposing a text about the provisions remaining in discussion.

If the mixed commission is unable to adopt a common text, the Government summons the National Assembly which will decide definitively.

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

- Budget bills

The proceeding concerning the budget is identical to that of ordinary law, with reservation for the particular provisions stated in Article 48 above.

- Legislative committees

## Article 59

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

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

- Organic laws

## Article 60

Organic laws provided for in the present Constitution are deliberated and passed according to the normal legislative procedure.

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

- Legislative oversight of the executive

## Article 61

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

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

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

- Legislative oversight of the executive

## Article 62

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

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

- Head of government removal
- Cabinet removal
- Limits on removing head of government

## Article 63

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

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

- Cabinet removal
- Limits on removing head of government
- Head of government removal

## Article 64

The National Assembly puts to issue the responsibility of the Government by the passing of a motion of censure. Such a motion can only be receivable if it is signed by at least one-quarter of the members of the National Assembly.

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

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

## Article 65

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

The resignation of the Prime Minister encompasses the resignation of the entire Government.

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

## Article 66

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

# TITLE V. Judicial Power

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## I. JUDICIAL AUTHORITY

### Article 67

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

### Article 68

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

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

### Article 69

The President of the Republic is the guarantor of the independence of the judicial power with respect to the provisions of the present Constitution, particularly Article 36. He is assisted by the Superior Council of the Magistrature and the presidents of the Judicial and Administrative Courts and [the Court] of Accounts.

### Article 70

The Superior Council of the Magistrature sees to the good administration of justice, and decides for this purpose upon the nominations, placements, advancements, and the discipline of the magistrates.

- Limits on removing head of government
- Head of government replacement
- Cabinet removal
- Head of government removal

- Establishment of constitutional court
- Courts for judging public officials
- Establishment of administrative courts
- Structure of the courts

- Judicial independence

- Establishment of judicial council

- Establishment of judicial council

- Establishment of judicial council

## Article 71

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

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

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

- Establishment of judicial council

## Article 72

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

## II. THE JUDICIAL COURT

- Structure of the courts

### Article 73

The Judicial Court is the highest jurisdiction in civil, commercial, social and penal matters. It is divided into civil, commercial, social and penal chambers.

Each chamber deliberates separately according to its area [chef] of competence.

The Judicial Court may sit both chambers together according to conditions provided by law.

The decisions are invested with absolute authority over the matter judged.

- Ordinary court selection
- Supreme court selection
- Structure of the courts
- Supreme court powers

### Article 73a

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

- Establishment of administrative courts

## III. THE ADMINISTRATIVE COURT

### Article 74

The Administrative Court is the highest jurisdiction of the State in administrative matters.

### Article 75

In addition to its jurisdictional competences, the Administrative Court is consulted according to conditions provided by the organic law mentioned in Article 75b below, and other laws.

### Article 75a

Decisions of the Administrative Court are invested with absolute authority over the matter [chose] judged.

- Administrative court selection
- Eligibility for administrative judges

### Article 75b

An organic law determines the organization, the composition, the competence and the functioning of the Administrative Court.

## IV. THE COURT OF ACCOUNTS

### Article 76

The Court of Accounts is charged with controlling the public finances. For this purpose:

- It assures the control of the execution of the Law of Finance and informs the Parliament and the Government of it;
- It verifies the regularity of the returns [recettes] and expenses described in the public accounts and assures, looking at the latter, that the credits, funds and assets managed by the services of the State or by the other moral persons of public law, are put to good use;
- It assures the verification of the accounts and of the management of public organisms with public financial participation;
- It judges the accounts of public accountants;
- It declares and clears administrative irregularities;
- It sanctions the errors of management committed against the State, the local collectivities and the organisms subjected to its control.

### Article 77

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

- Courts for judging public officials

## V. THE HIGH COURT OF JUSTICE AND OTHER JURISDICTIONS OF EXCEPTION

### Article 78

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

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

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

Between sessions, the decree of convocation of Parliament will be exceptionally made by the Prime Minister.

The Vice-President of the Republic, the Presidents and Vice-Presidents of the constituent bodies, the members of the Government and the members of the Constitutional Court are penally responsible before the High Court of Justice for acts accomplished in the exercise of their functions and qualified as crimes or misdemeanors at the moment they were committed, as well as their accomplices and co-authors in the case of threat [atteinte] to the security of the State.

Such cases may be referred to the High Court of Justice by the President of the Republic, the Presidents of the Chambers of Parliament, the Procurator General of the Judicial Court acting by right [d'office] or any other interested persons.

### Article 79

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

- Cabinet removal
- Head of government removal
- Constitutional court removal
- Head of state removal
- Attorney general

## Article 80

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

The President and the Vice-President of the High Court of Justice are elected from among the resultant magistrates of the preceding paragraph by the group of members of this institution.

## Article 81

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

## VI. OTHER JURISDICTIONS OF EXCEPTION

### Article 82

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

- Establishment of constitutional court

## TITLE VI. The Constitutional Court

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### Article 83

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

- Constitutional court powers
- Constitutional interpretation

### Article 84

The Constitutional Court decides obligatorily on:

- the constitutionality of organic laws and laws before their promulgation, regulatory acts which touch upon the fundamental rights of the human person and public liberties;
- the rules of the national assembly, of the National Council of Communication and of the Economic and Social Council before their effectuation, regarding their conformity to the Constitution;
- conflicts of attribution between the institutions of the State;
- the regularity of all political elections and operations of the referendum of which it proclaims the results.

- Constitutional interpretation
- Constitutionality of legislation
- Constitutional court powers

- Referenda

The Constitutional Court is seized, in the case of contestation of the validity of an election, by any voter, any candidate, any political party or the delegate of the Government under the conditions provided for by the organic law.

- Constitutionality of legislation

### Article 85

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

- Organic laws

The other categories of laws as well as regulatory acts may be referred to the Constitutional Court either by the President of the Republic, or by the Prime Minister, or by the presidents of the Chambers of Parliament or one-tenth of the members of each Chamber, or by the presidents of the Judicial and Administrative Courts and [the Court] of Accounts, or by any citizen or any moral person aggrieved by the law or contested act.

The Constitutional Court decrees, according to an adversarial procedure of which the processes are established by the organic law, in a period of one month. However, upon the demand of the Government and in case of emergency, this delay is shortened to eight days. The review suspends the period of promulgation of the law or the application of the act.

A provision declared unconstitutional cannot be promulgated or applied.

- Constitutionality of legislation
- Right to appeal judicial decisions

## Article 86

Any accused may, by means of a process before an ordinary tribunal, raise an exception of unconstitutionality when faced with a law or an act which does not recognize his fundamental rights.

The judge on the bench seizes the Constitutional Court by way of prejudicial exception.

The Constitutional Court decrees within a period of one month. If it declares the incriminatory law unconstitutional, this law ceases to produce these effects from the moment of the decision.

The Parliament examines, during the course of the next session, within the scope of a procedure of remittal, the consequences deriving from the decision of non-conformity to the Constitution rendered by the Court.

- Constitutional court powers
- Legal status of treaties

## Article 87

International engagements, provided for in Articles 113 to 115 below are referred before their ratification to the Constitutional Court, either by the President of the Republic, or by the Prime Minister, or by the President of the National Assembly, or by a tenth of the Deputies.

The Constitutional Court verifies, within a period of one month, if its provisions contain a clause contrary to the Constitution. However, at the demand of the Government, if there is urgency, this period shall be shortened to eight days.

In the affirmative, these provisions cannot be ratified.

- Constitutional interpretation

## Article 88

Outside of the other competences provided by the Constitution, the Constitutional Court has the power to interpret the Constitution and the other texts of constitutional standing at the demand of the President of the Republic, the Prime Minister, the President of the Senate, the President of the National Assembly, or of one-tenth of the Deputies or the Senators.

## Article 89

The Constitutional Court consists of nine (9) appointed members who carry the title of Councilors.

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

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

- three by the President of the Republic, one of which will be the President;
- 

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

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

Each of the authorities listed in the above line is obliged to designate two (2) jurists at least one of which a magistrate. The latter is chosen from a list of aptitude established by the Superior Council of the Magistrature.

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

The Councilors are principally chosen from among professors of law, lawyers and magistrates at least forty (40) years old and [having] at least 15 years of professional experience as well as qualified persons having honored the service of the State and being at least forty (40) years old.

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

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

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

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

## Article 90

The functions of a member of the Constitutional Court are incompatible with any other public function or private professional activity, excluding the exceptions provided by the organic law.

The members of the Constitutional Court take an oath during the course of a solemn ceremony presided over by the President of the Republic, before the Parliament and the three courts jointly, the Judicial and Administrative Courts and [the Court] of Accounts.

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

"I swear to conscientiously fulfill the duties of my charge with strict respect for the obligations of neutrality and of discretion, and to conduct myself as a dignified and loyal magistrate."

## Article 91

The Constitutional Court presents a report of activities each year to the President of the Republic and to the Presidents of the Chambers of Parliament. On this occasion it may call the attention of public powers to the effect of its decisions upon legislative and regulatory matters.

## Article 92

The decisions of the Constitutional Court are not subject to any review. They binding for public powers, all the administrative and jurisdictional authorities, and all physical and moral persons.

## Article 93

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

- Media commission

# TITLE VII. The National Council of Communication

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- Human dignity

## Article 94

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

- Television
- Radio
- Media commission
- Freedom of press
- State operation of the media

## Article 95

To this effect a National Council of Communication is instituted and charged with ensuring

- Rights of children

- Right to culture

- respect for the expression of democracy and the freedom of the press in all that which arises in the territory;
- access of citizens to free communication;
- equal treatment of all political parties and associations;
- respect of rules concerning conditions of production, of programming and the diffusion of emissions relative to electoral campaigns;
- control of programs and of the regulation in force in the matter of communication, as well as rules of exploitation;
- respect for the status of communications professionals;
- harmonization of programs between public stations of radio and television;
- policy of production of audiovisual and cinematographic works;
- the promotion and the development of techniques of communication and instruction of personnel;
- the respect for the quotas of Gabonese programs diffused on the public and private radio and television stations;
- the control of the content and means of planning publicity emissions diffused by public and private radio and television stations;
- the control of conditions of operation of public and private enterprises;
- the protection of the infancy and the adolescence in the programming of emissions diffused by public and private enterprises of audiovisual communication;
- the defense and the enlightenment of Gabonese culture.

## Article 96

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

## Article 97

Any conflict opposing the National Council of Communication to another public organism will be resolved, through the diligence of one of the parties, by the

Constitutional Court.

## Article 98

The National Council of Communication consists of nine members chosen as follows:

- three by the President of the Republic, of which one is the President;
- three by the President of the Senate;
- and three by the President of the National Assembly.

Each of the authorities listed in the above paragraph designates obligatorily two specialists in communications.

- Reference to science

## Article 99

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

## Article 100

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

In case of death or resignation of a member, the new member shall be appointed by the concerned nomination authority to complete the current mandate.

## Article 101

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

In case of temporary vacancy, the oldest member shall act as interim President.

## Article 102

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

# TITLE VIII. The Economic and Social Council

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- Economic plans

## Article 103

The Economic and Social Council, subject to the provisions of Articles 8, paragraph 3, 28 paragraph 1 and Article 53 above, has competence over all aspects of economic, social and cultural development:

- the general orientation of the country's economy;
- financial and budgetary policy;
- industrial policy;
- social and cultural policy;
- environmental policy.

- Protection of environment

## Article 104

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

It compiles and directs, with the participation of the different entities of which it is composed, to the attention of the President of the Republic, the annual summation of achievements, needs and problems of the civil society with explanations and proposals.

- Economic plans

## Article 105

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

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

Acting in the name of the government, the Prime Minister refers demands for advice or study to the Economic and Social Council.

- Economic plans

## Article 106

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

- Economic plans

## Article 107

The Economic and Social Council may designate one of its members, at the demand of the President of the Republic, of the Government or of the National Assembly, in order to expound before these organs the advice of the Council on the projects or proposals which are submitted to it.

The Government and the Parliament has the obligation, when in session, to follow up on the advice and reports formulated by the Economic and Social Council within a maximum period of three months for the Government and before the end of the current session for Parliament.

The Economic and Social Council receives an official copy of the laws, ordinances and decrees upon their promulgation. It follows the decisions of the Government relative to economic and social organization.

## Article 108

Members of the Economic and Social Council are:

- representatives of syndicates, socio-professional associations and groups, elected by their associations or groups of origin;
- high officials of the State in the economic and social domain;
- representatives of local units designated by their peers.

- Municipal government

The duration of the mandate of the members of the Economic and Social Council is four years, renewable;

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

## Article 109

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

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

The meetings of the Economic and Social Council are public.

## Article 110

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

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

## Article 111

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

- Municipal government

# TITLE IX. Local Collectivities

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## Article 112

Local collectivities of the Republic are created by law. They can only be modified or abolished after the advice of the interested councils and under the conditions fixed by law.

They freely administer themselves by councils elected under the conditions provided by law, particularly in matters concerning their competences and their resources.

## Article 112a

Local referenda concerning specific problems falling outside the domain of the law may be organized on the initiative of either the elected councils or the interested citizens, according to conditions determined by law.

## Article 112b

Conflicts of competences between local collectivities or between a local collectivity and the State, are brought before the administrative jurisdictions, at the initiative of the responsible authorities or the representative of the State.

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

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

- Treaty ratification
- International law

## TITLE X. International Treaties and Accords

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- Foreign affairs representative
- Legal status of treaties

### Article 113

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

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

- International organizations

### Article 114

Peace treaties, commercial treaties, treaties relative to international organization, treaties which engage the finances of the State, and treaties concerning the status of persons can only be approved and ratified by virtue of a law.

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

No cession, no exchange, no junction of territory can be effective without the consultation of the Gabonese people through a referendum.

## TITLE XI. Cooperation and Association Accords

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- International organizations

### Article 115

The Gabonese Republic sovereignly concludes accords of cooperation or association with other States. She accepts to create with them international organisms of common interest, coordination and free cooperation.

- Constitution amendment procedure

## TITLE XII. Amendment of the Constitution

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### Article 116

The initiative of amendment belongs concurrently to the President of the Republic, the Council of Ministers thereupon focused, and the members of Parliament.

Any proposal of amendment is filed with the Bureau of the National Assembly by at least one-third of the Deputies or with the Bureau of the Senate by at least one-third of the Senators.

Any bill or proposal to revise the Constitution as well as any amendment concerning it is submitted for evaluation to the Constitutional Court.

The amendment is adopted either by way of referendum or by a parliamentary vote.

When a parliamentary vote is chosen, the bill or proposal to revise the Constitution must be voted upon respectively by the National Assembly and by the Senate in

- Head of government powers
- Head of state powers

- Standing committees

identical terms.

The adoption of any bill or of any proposal of revision of the Constitution by the parliamentary vote requires the presence of at least two-thirds of the members of the Parliament convened in congress. The presidency of the congress is held by the President of the National Assembly.

- Standing committees

The Bureau of the congress is that of the National Assembly. A qualified majority of two-thirds of the expressed votes is required to adopt the bill or proposal to revise the Constitution.

Additionally, amendment of the Constitution shall not be attempted or achieved during an interim presidency, during recourse to the emergency powers of Article 26 above, during an attack on the nation's territorial integrity, or during the period which separates the proclamation of the results of the presidential election and the beginning of a new presidential mandate.

- Unamendable provisions

## Article 117

The Republican form of the State, as well and the pluralist character of the democracy are untouchable and cannot be the object of any amendment.

- Transitional provisions

## TITLE XIII. Temporary Provisions

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### Article 118

- Head of state term length

The provisions concerning the duration of the mandate of the President of the Republic shall come into effect upon the first presidential election following the promulgation of the present law.

- Constitutional court term length

The renewing of the Constitutional Court, and of the National Council of the Communication shall occur at the regular end of their current mandate, at the time of promulgation of the present law.

- Term length of second chamber
- Standing committees
- Term length for first chamber

The provisions concerning the duration of the mandate of the Bureaus of the Chambers of the Parliament, the duration of the sessions and the administrative and financial autonomy of the Chambers of Parliament shall come into effect upon promulgation of the present law.

### Article 119

The present Law which abrogates all previous [and] contrary provisions will be registered, published in the official journal and executed as law of the Republic.

### Article 120

The present Constitution will be published in the Official Journal and executed as law of the Republic.

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