

# Constitution of the People's Republic of Benin

The High Council of the Republic, in accordance with the Constitutional Law of August 13, 1990 has proposed;

The Béninese people have adopted in the Constituent referendum of December 2, 1990 the Constitution;

The President of the Republic promulgates the Constitution whose contents follow:

## **PREAMBLE**

Dahomey, proclaimed a Republic on December 4, 1958, acceded to international sovereignty August 1, 1960. Having become the People's Republic of Bénin on November 30, 1975, and then the Republic of Bénin on March 1, 1990, it has known a turbulent constitutional and political evolution since its accession to independence. Only the option in favor of the Republic has remained permanent.

The successive changes of political regimes and of governments have not blunted the determination of the Béninese people to search for, in their own spirit, the cultural, philosophical and spiritual values of civilization which sustain the forms of their patriotism.

Thus, the National Conference of Active Forces of the Nation, held in Cotonou from February 19 to 28, 1990, in giving back confidence to the people, has permitted the national reconciliation and the advent of an era of democratic revival.

On the day after this Conference,

## **WE, THE BÉNINESE PEOPLE**

-Reaffirm our fundamental opposition to any political regime founded on arbitrariness, dictatorship, injustice, corruption, misappropriation of public funds, regionalism, nepotism, confiscation of power, and personal power;

-Express our firm will to defend and safeguard our dignity in the eyes of the world and to find again the place and role as pioneer of democracy and of the defense of human rights which were formerly ours;

-Solemnly affirm our determination by this present Constitution to create a State of law and pluralistic democracy in which the fundamental human rights, public liberties, the dignity of the human being, and justice shall be guaranteed, protected and promoted as the condition necessary for the genuine harmonious

development of each Béninese in his temporal and cultural dimension as well as in his spiritual;

-Reaffirm our attachment to the principles of democracy and human rights as they have been defined by the Charter of the United Nations of 1945 and the Universal Declaration of Human Rights 1948, by the African Charter on Human and Peoples' Rights adopted in 1981 by the Organization of African Unity and ratified by Bénin on January 20, 1986 and whose provisions make up an integral part of this present Constitution and of Béninese law and have a value superior to the internal law;

-Affirm our will to cooperate in peace and friendship with all peoples who share our ideals of liberty, of justice, of human solidarity based on the principles of equality, of reciprocal interest and of mutual respect for national sovereignty and for territorial integrity;

-Proclaim our attachment to the cause of African unity and pledge ourselves to leave no stone unturned in order to realize local and regional integration;

-Solemnly adopt the present Constitution which shall be the Supreme Law of the State and to which we swear loyalty, fidelity and respect.

## **TITLE I**

### **THE STATE AND SOVEREIGNTY**

#### **ARTICLE 1.**

The state of Bénin shall be an independent sovereign republic.

The Capital of the Republic of Bénin shall be PORTO-NOVO.

The national emblem shall be a tri-colored flag of green, yellow and red. Next to the staff is a green band for the entire height and two-fifths of the length, with two equal horizontal bands: the upper one yellow and the lower one red.

The national anthem of the Republic shall be "L'AUBE NOUVELLE."

The motto of the Republic shall be "FRATERNITÉ - JUSTICE TRAVAIL."

The official language shall be French.

The State Seal shall consist of a disk 120 millimeters in diameter showing:

On the obverse side a pirogue loaded with six five-pointed stars sailing over the waves, accompanied overhead by a bow with one arrow in the shape of a palm supported by two crossed "recades," and below by a banderole bearing the motto

"FRATERNITÉ-JUSTICE-TRAVAIL" with the inscription "République du Bénin" within the circle;

And on the reverse side a shield divided into two equal parts - the first part of sinople [green] and the second of gold [yellow] and of gueules [red] which are the three colors of the flag. The shield is surrounded by two native palm trees with their trunks crossed in the shape of an X.

The Coat of Arms of Bénin shall be as follows:

In the first quarter in gold, a Somba fortress;

In the second quarter in silver, the native star of Bénin, that is to say, an eight-pointed azure saltire angled with rays of silver and black in the background;

In the third quarter in silver, a green palm tree loaded with red fruit;

In the fourth quarter in silver, a sable [black] ship sailing on an azure sea with a losange in gueules [red] passing under the line of the quarter.

The Supporters: two spotted panthers in gold;

The Postage Stamp: Two black cornucopias from which come ears of corn;

The motto: "Fraternité-Justice-Travail" in black letters on banderole.

## **ARTICLE 2.**

The Republic of Bénin shall be one - indivisible, secular and democratic.

Its principle shall be: Government of the People, by the People, and for the People.

## **ARTICLE 3.**

National sovereignty shall belong to the People. No portion of the People, no community, no corporation, no party or political association, no trade union organization nor any individual shall be able to abrogate the exercise of it.

Sovereignty shall be exercised in accordance with the present Constitution which is the Supreme Law of the State.

Any law, any statutory text and any administrative act contrary to these provisions shall be null and void. Consequently, any citizen shall have the right to appeal to

the Constitutional Court against the laws, texts, and acts presumed unconstitutional.

#### **ARTICLE 4.**

The people shall exercise their sovereignty through their elected representatives by means of the referendum. The conditions of recourse to the referendum shall be determined by the present Constitution and by an organic law.

The Constitutional Court shall see to the regularity of the referendum and shall proclaim its results.

#### **ARTICLE 5.**

Political parties shall cooperate in the expression of suffrage. They shall be formed and shall freely exercise their activities under conditions determined by the Charter of Political Parties. They must respect the principles of national sovereignty, of democracy, of territorial integrity and of the secularity of the State.

#### **ARTICLE 6.**

Suffrage shall be universal, equal and secret. The electors shall be, under the conditions determined by law, all Béninese nationals of both sexes over the age of eighteen and in full possession of their civil and political rights.

### **TITLE II**

#### **RIGHTS AND DUTIES OF THE INDIVIDUAL**

#### **ARTICLE 7.**

The rights and duties proclaimed and guaranteed by the African Charter on Human and Peoples' Rights adopted in 1981 by the Organization of African Unity and ratified by Bénin on January 20, 1986 shall be an integral part of the present Constitution and of Béninese law.

#### **ARTICLE 8.**

The human person is sacred and inviolable.

The State has the absolute obligation to respect it and protect it. It shall guarantee him a full blossoming out. To that end, it shall assure to its citizens equal access to health, education, culture, information, vocational training, and employment.

#### **ARTICLE 9.**

Every human being has a right to the development and full expansion of his person in his material, temporal and intellectual dimensions, provided that he does not violate the rights of others nor infringe upon constitutional order and good manners.

#### **ARTICLE 10.**

Every person has a right to culture. The State has the duty to safeguard and promote the national values of civilizations, as much material as spiritual, as well as the cultural traditions.

#### **ARTICLE 11.**

All communities comprising the Béninese nation shall enjoy the freedom to use their spoken and written languages and to develop their own culture while respecting those of others.

The State must promote the development of national languages of intercommunication.

#### **ARTICLE 12.**

The State and public authorities shall guarantee the education of children and shall create conditions favorable to this end.

#### **ARTICLE 13.**

The State shall provide for the education of the youth by public schools Primary education shall be obligatory. The State shall assure progressively free public education.

#### **ARTICLE 14.**

Religious institutions and communities shall be able to cooperate equally in the education of the youth. Private schools, secular or parochial, may be opened with the authorizations and control of the State. The private schools may benefit from state subsidies under conditions determined by law.

#### **ARTICLE 15.**

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

#### **ARTICLE 16.**

No one shall be arrested or accused except by virtue of a law promulgated prior to the charges against him.

No citizen shall be forced into exile.

#### **ARTICLE 17.**

Any person accused of an unlawful act shall be presumed innocent until his culpability has been legally established in the course of a public lawsuit during which all guarantees necessary to his free defense shall have been assured to him.

No one shall be condemned for actions or omissions which, at the moment when they were committed, did not constitute an infraction according to the national law. Likewise, he may not have a more severe penalty inflicted than that which was applicable at the time when the offense was committed.

#### **ARTICLE 18.**

No one shall be submitted to torture, not to maltreatment, nor to cruel, inhumane or degrading treatment.

No one shall have the right to prevent a detainee or an accused person from being examined by a doctor of his choice.

No one may be detained in a penal institution if he does not fall under the provisions of a penal law in force.

No one may be detained for a duration greater than forty-eight hours except by a decision of the magistrate before whom he must have been presented. This delay may be prolonged only in circumstances exceptionally provided for by law and may not exceed a period greater than eight days.

#### **ARTICLE 19.**

Any individual or any agent of the State who shall be found responsible for an act of torture or of maltreatment or of cruel, inhumane or degrading treatment in the exercise of, or at the time of the exercise of his duties, whether of his own initiative or whether under instruction, shall be punished in accordance with the law.

Any individual or any agent of the State shall be absolved of the duty of obedience when the order received shall constitute a serious and manifest infringement with respect to human rights and public liberties.

## **ARTICLE 20.**

The domicile shall be inviolable. House visits or searches may be carried out only according to the forms and conditions provided by law.

## **ARTICLE 21.**

The secrecy of correspondence and of communications shall be guaranteed by law.

## **ARTICLE 22.**

Every person has the right to his property. No one shall be deprived of his property except for state-approved usefulness and in exchange for a just and prerequisite compensation.

## **ARTICLE 23.**

Every person has the right to freedom of thought, of conscience, of religion, of creed, of opinion and of expression with respect for the public order established by law and regulations. The exercise of a creed and the expression of beliefs shall take place with respect for the secularity of the State.

The institutions and the religious or philosophical communities shall have the right to develop without hindrances. They shall not be subject to the guardianship of the State. They shall regulate and administer their affairs in an autonomous manner.

## **ARTICLE 24.**

Freedom of the press shall be recognized and guaranteed by the State. It shall be protected by the High Authority of Audio-Visuals and Communications under the conditions fixed by an organic law.

## **ARTICLE 25.**

The State shall recognize and guarantee, under conditions fixed by law, the freedom to go and come, the freedom of association, of assembly, of procession and of demonstration.

## **ARTICLE 26.**

The State shall assure to everyone equality before the law without distinction of origin, of race, of sex, of religion, of political opinion or of social position.

Men and women are equal under the law. The State shall protect the family and particularly the mother and child. It shall take care of handicapped and aged persons.

#### **ARTICLE 27.**

Every person has the right to a healthy, satisfying and lasting environment and has the duty to defend it. The State shall watch over the protection of the environment.

#### **ARTICLE 28.**

The storage, handling, and removal of toxic wastes or pollutants originating from factories and other industrial or cottage industry units installed in the national territory shall regulated by law.

#### **ARTICLE 29.**

The transportation, importation, storage, burying and the discharging on the national territory of toxic wastes or foreign pollutants and any agreement relating to it shall constitute a crime against the Nation. The applicable sanctions shall be defined by law.

#### **ARTICLE 30.**

The State shall recognize for all citizens the right to work and shall strive to create conditions which shall make the enjoyment of this right effective and shall guarantee to the worker just compensation for his services or for his production.

#### **ARTICLE 31.**

The State shall recognize and guarantee the right to strike. Each worker may defend, under the conditions provided by law, his rights and interests whether individually, whether collectively, or by trade union action. The right to strike shall be exercised under conditions defined by law.

#### **ARTICLE 32.**

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

Military service shall be obligatory. The conditions for the accomplishment of this duty shall be determined by law.



### **ARTICLE 33.**

All citizens of the Republic of Bénin have the duty to work for the common good, to fulfill all of their civic and professional obligations, and to pay their fiscal contributions.

### **ARTICLE 34.**

Each Béninese citizen, civilian or military, has the sacred duty to respect, in all circumstances, the Constitution and the established constitutional order as well as the laws and regulations of the Republic.

### **ARTICLE 35.**

Citizens responsible for a public office or elected to a political office have the duty to fulfill it with conscience, competence, probity, devotion, and loyalty in the interest of the common good.

### **ARTICLE 36.**

Each Béninese has the duty to respect and to consider his own kin without any discrimination; and to keep relations with others that shall permit the safeguarding, the reinforcement and promotion of respect, dialog and reciprocal tolerance with a view to peace and to national cohesion.

### **ARTICLE 37.**

Public property shall be sacred and inviolate. Each Béninese citizen must respect it scrupulously and protect it. Any act of sabotage, vandalism, corruption, diversion, dilapidation or illegal enrichment shall be suppressed under conditions provided by law.

### **ARTICLE 38.**

The State shall protect the rights and legitimate interests of Béninese citizens in a foreign country.

### **ARTICLE 39.**

Foreigners in the territory of the Republic of Bénin shall have the benefit of the same rights and liberties as the Béninese citizens, and this under the conditions determined by law. They must conform to the Constitution and to the laws and regulations of the Republic.

#### **ARTICLE 40.**

The State has the duty to assure the diffusion and the teaching of the Constitution, of the Universal Declaration of Human Rights of 1948, of the African Charter on Human and Peoples' Rights of 1981 as well as all of the international instruments duly ratified and relative to Human Rights.

The State must integrate the rights of the individual into the programs of literacy and of teaching in the various scholastic and university academic cycles and into all the educational programs of the Armed Forces, of the Public Security Forces and of comparable categories.

The State must equally assure the diffusion and teaching of these same rights in the national languages by all the means of mass communication, and particularly by radio and television.

### **TITLE III EXECUTIVE POWER ARTICLE 41.**

The President of the Republic shall be the Chief of State. He shall be elected by the Nation and shall embody the national unity.

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

#### **ARTICLE 42.**

The President of the Republic shall be elected by direct universal suffrage for a mandate of five years, renewable only one time.

In any case, no one shall be able to exercise more than two presidential mandates.

#### **ARTICLE 43.**

The election of the President of the Republic shall take place with uninominal majority ballot in two rounds.

#### **ARTICLE 44.**

No one may be a candidate for the office of President of the Republic unless:

-He is of Béninese nationality at birth or shall have acquired it for at least ten years;

-He is of good morality and of great honesty;

-He enjoys all his civil and political rights;

-He is at least 40 years old but not more than 70 years old at the date of the filing of his candidacy;

-He resides in the territory of the Republic of Bénin at the time of the elections;

-He enjoys a satisfactory state of physical and mental well-being duly verified by a collegiate board of three doctors sworn and designated by the Constitutional Court.

#### **ARTICLE 45.**

The President of the Republic shall be elected by an absolute majority of votes cast. If that shall not be obtained in the first round of voting, it shall be followed, after a delay of fifteen days, by a second round.

The only ones who may be presented in the second round of balloting shall be the two candidates who shall have received the greatest number of votes in the first round. In case of the withdrawal of one or both of the two candidates, the next ones shall be presented in the order of their filing after the first balloting.

The candidate having received the relative majority of votes cast in the second round shall be declared elected.

#### **ARTICLE 46.**

The convocation of the electors shall be made by a decree issued in the Council of Ministers.

#### **ARTICLE 47.**

The first round of balloting for the election of the President of the Republic shall take place at least thirty days and at most forty days before the expiration date of the powers of the President in office.

The mandate of the new President of the Republic shall take effect by counting from the expiration date of the mandate of his predecessor.

#### **ARTICLE 48.**

The law shall fix the conditions of eligibility, of the presentation of the candidates, of the progress of the balloting, of the counting of the votes and of the proclamation of the results of the election of the President of the Republic.

The law shall fix the civil list of the President of the Republic and shall determine the pension to be allocated to the former Presidents of the Republic.

However, in order to be counted from the promulgation of the present Constitution, only the constitutionally elected Presidents of the Republic shall be able to benefit from the provisions of the preceding paragraph.

#### **ARTICLE 49.**

The Constitutional Court shall watch over the regularity of the balloting and shall verify its results.

The election of the President of the Republic shall be made the subject of a provisional proclamation.

If any dispute relating to the regularity of the electoral operations shall not have been filed in the Office of the Clerk of the Court by one of the candidates within five days of the provisional proclamation, the Court shall declare the President of the Republic definitely elected.

In case of a dispute, the Court must decide within ten days of the provisional proclamation; its decision shall convey the final proclamation of or the annulment of the election.

If no dispute has been raised within the waiting period of five days and if the Constitutional Court shall deem that the election has not been tainted by any irregularity of a nature to bring about an annulment, it shall proclaim the election of the President of the Republic within the fifteen days following the balloting.

In case of annulment, a new round of balloting shall proceed within fifteen days of the decision.

#### **ARTICLE 50.**

In case of vacancy of the Presidency of the Republic by death, resignation or permanent impediment, the National Assembly shall reconvene in order to rule on the case with an absolute majority of its members. The President of the National Assembly shall refer the matter to the Constitutional Court which shall certify it and declare the vacancy of the Presidency of the Republic. The duties of President

of the Republic, with the exception of those mentioned in Articles 54 paragraph 3, 58 [typographical error: "50" in French text below - ed.], 60, 101, and 154 shall be temporarily exercised by the President of the National Assembly.

The election of a new President of the Republic shall take place thirty days at the least and forty days at most after the declaration of the permanent nature of the vacancy.

In case of bringing an accusation of the President of the Republic before the High Court of Justice, his interim shall be assumed by the President of the Constitutional Court who shall exercise all the duties of President of the Republic with the exception of those mentioned in Articles 54 paragraph 3, 58, 60, 101 and 154.

In case of absence from the territory, of illness and of vacation of the President of the Republic, his interim shall be assumed by a member of the Government whom he shall have designated and within the limitation of powers that he shall have delegated to him.

#### **ARTICLE 51.**

The duties of the President of the Republic shall be incompatible with the exercise of any other elected office, of all public employment - civil or military, and of all professional activity.

#### **ARTICLE 52.**

In the course of their duties, the President of the Republic and the members of the Government may not by themselves, nor by an intermediary, purchase or take a lease on anything that pertains to the domain of the State without prior authorization of the Constitutional Court under conditions fixed by law.

They shall be bound then, from their entry into office and to the end of it, to make on their honor a written declaration of their assets and inheritance addressed to the Committee of Accounts of the Supreme Court.

They may not take part in the buying of supplies and in the awarding of contracts for the administration or institutions within the jurisdiction of the State or submitted to their control.

#### **ARTICLE 53.**

Before taking his office, the President of the Republic shall take the following oath:

"Before God, the Manes [spirits] of the ancestors, the Nation and before the Béninese People, the only holder of sovereignty;

"I, President of the Republic, elected in accordance with the laws of the Republic do solemnly swear

-To respect and defend the Constitution which the Béninese People have freely given to themselves;

-To fulfil loyally the high office that the Nation has entrusted to me;

-To allow myself to be guided only by the general interest and the respect for human rights, to consecrate all my strength to the research and the promotion of the common good, of peace and of national unity;

-To preserve the integrity of the national territory;

-To conduct myself everywhere as a faithful and loyal servant of the people.

In case of perjury, that I shall submit to the severity of the law."

This oath shall be received by the President of the Constitutional Court before the National Assembly and the Supreme Court.

#### **ARTICLE 54.**

The President of the Republic shall be the holder of executive power. He shall be the head of the Government, and with this title he shall determine and conduct the politics of the Nation. He shall exercise statutory power.

He shall have the Civil Service and the Armed Forces at his disposal. He shall be responsible for the National Defense.

He shall appoint, after an advisory opinion of the National Assembly, the members of the Government; he shall fix their prerogatives and shall bring an end to their duties.

The members of the Government shall be responsible to him.

The duties of the members of the Government shall be incompatible with the exercise of any parliamentary mandate, with any public employment - civil or military, and with any professional activity.

The acts of the President of the Republic other than those provided for in Articles 60 and 115 shall be countersigned by the Ministers charged with their execution.

#### **ARTICLE 55.**

The President of the Republic shall preside over the Council of Ministers.

The Council of Ministers shall deliberate obligatorily on:

- Decisions determining the general policies of the State:
- Government bills;
- Ordinances and regulatory decrees.

#### **ARTICLE 56.**

The President of the Republic shall appoint three of the seven members of the Constitutional Court.

After advice from the President of the National Assembly, he shall appoint from the Council of Ministers: the President of the Supreme Court, the President of the High Authority of Audio-Visuals and Communications, and the Grand Chancellor of the National Order.

He shall appoint likewise from the Council of Ministers: members of the Supreme Court, Ambassadors, special envoys, Magistrates, general and superior officials, and the high office-holders whose list shall be fixed by an organic law.

#### **ARTICLE 57.**

The President of the Republic shall have the initiative of laws concurrently with the members of the National Assembly.

He shall assure the promulgation of laws within the fifteen days following their transmission to him by the President of the National Assembly.

This time limit shall be reduced to five days in case of an emergency declared by the National Assembly.

He shall be able, before the expiration of these waiting periods, to demand of the National Assembly a second deliberation of the law or of certain of its articles. This second deliberation may not be refused.

If the National Assembly shall be at the end of the session, this second deliberation shall take place automatically at the time of the following regular session.

The vote for this second deliberation shall be acquired by the absolute majority of members composing the National Assembly. If, after this last vote, the President of the Republic shall refuse to promulgate the law, the Constitutional Court upon a submission by the President of the National Assembly shall declare the law enforceable if it is in accordance with the Constitution.

The same procedure for implementation shall be followed when, at the expiration of the deadline of fifteen days of promulgation provided for in paragraph 2 of the present article, there is neither promulgation nor demand for a second reading.

#### **ARTICLE 58.**

The President of the Republic, after consultation with the President of the National Assembly and the President of the Constitutional Court, shall be able to take the initiative of the referendum on any question relative to the promotion of and the reinforcement of human rights, to sub-regional or regional integration, and to the organization of public authorities.

#### **ARTICLE 59**

The President of the Republic shall insure the execution of the laws and shall guarantee that by judicial decisions.

#### **ARTICLE 60.**

The President of the Republic shall have the power of pardon. He shall exercise this right under the conditions defined by Article 130.

#### **ARTICLE 61.**

The President of the Republic shall accredit the ambassadors and special envoys to foreign powers; the ambassadors and special envoys of the foreign powers shall be accredited to him.

#### **ARTICLE 62.**

The President of the Republic shall be the Supreme Commander of the Armed Forces.

He shall appoint from the Council of Ministers the members of the Superior Council of Defense and shall preside at the meetings of the said Council.



The composition, the organization and the operation of the Superior Council of Defense shall be fixed by a law.

#### **ARTICLE 63.**

The President of the Republic may, in addition to the specialized functions of the defense of territorial integrity vested in the Armed Forces, have them cooperate in the economic development of the Nation and in any other tasks of public interest under the conditions defined by the law.

#### **ARTICLE 64.**

Any member of the Armed Forces or the Public Security who shall desire to be a candidate for the office of President of the Republic must first send in his resignation from the Armed Forces or the Public Security.

In this case, the interested person will be able to claim the benefits of the rights acquired in accordance with the regulations of this corps.

#### **ARTICLE 65.**

Any attempt to overthrow the constitutional regime by the personnel of the Armed Forces or of the Public Security shall be considered as a breach of duty and a crime against the Nation and the State and will be punished in accordance with the law.

#### **ARTICLE 66.**

In case of a coup d'Etat, of a putsch, of aggression by mercenaries or of any action by force whatsoever, any member of a constitutional agency shall have the right and the duty to make an appeal by any means in order to re-establish the constitutional legitimacy, including recourse to existing agreements of military or defense cooperation.

In these circumstances for any Béninese to disobey and organize himself to put a check to the illegitimate authority shall constitute the most sacred of rights and the most imperative of duties.

#### **ARTICLE 67.**

The President of the Republic may not make an appeal to any foreign Armed Forces or Police to intervene in an internal conflict except in the cases provided for in Article 66.

#### **ARTICLE 68.**

When the institutions of the Republic, the independence of the Nation, the integrity of the national territory or the execution of international commitments shall be threatened in a serious and immediate manner, and when the regular operation of political and constitutional powers shall be threatened or interrupted; the President of the Republic, after consultation with the President of the National Assembly and the President of the Constitutional Court, shall take within the Council of Ministers the exceptional measures required by the circumstances without which the rights of the citizens guaranteed by the Constitution would be suspended.

He shall inform the Nation of this by a message.

The National Assembly shall reconvene in full session in an extraordinary session.

#### **ARTICLE 69.**

The measures taken ought to be inspired by the intention to assure to the public and constitutional authorities the means to accomplish their mission with the least delay.

The National Assembly shall fix the deadline for the time limits beyond which the President of the Republic may not take exceptional measures.

#### **ARTICLE 70.**

The President of the Republic may delegate to Ministers certain of his powers except those provided for in Articles 54 paragraph 3, 60, 61, 101, 115, 133 and 144.

#### **ARTICLE 71.**

The President of the Republic or any member of his Government in the exercise of his governmental office may be interpellated by the National Assembly.

The President of the Republic shall respond to these interpellations in the presence of the National Assembly in person or by one of his ministers that he shall especially delegate.

In that circumstance, the National Assembly may bring a resolution in order to make recommendations to the Government.

#### **ARTICLE 72.**

The President of the Republic shall address a message to the National Assembly on the state of the Nation once a year.

He may also, at any time, address messages to the National Assembly. These messages shall not give way to any debate; however, they may suggest tasks for the Assembly.

#### **ARTICLE 73.**

The personal responsibility of the President of the Republic shall be pledged in case of high treason, of an insult to the Assembly or of an insult to his honor and probity.

#### **ARTICLE 74.**

There shall be high treason when the President of the Republic shall have violated his oath; shall be acknowledged as author, co-author, or accomplice in grave violations characterized in the Rights of Man [Droits de l'Homme] or of the transfer of a part of the national territory; or of an act detrimental to the maintenance of a healthy, satisfying, lasting environment favorable for development.

#### **ARTICLE 75.**

There shall be an attack on his honor and on his probity notably when the personal behavior of the President of the Republic shall be contrary to good manners or when he shall be acknowledged as author, co-author or accomplice in embezzlement, corruption, or illegal enrichment.

#### **ARTICLE 76.**

There shall be an insult to the National Assembly when, to questions posed by the National Assembly concerning governmental activity, the President of the Republic shall not furnish any response within a period of thirty days.

#### **ARTICLE 77.**

After this deadline, the President of the National Assembly shall submit this grave shortcoming to the Constitutional Court for constitutional action.

The Constitutional Court shall decide within three days. The President of the Republic shall be required to furnish the responses to the National Assembly within the shortest period of time, and in all cases before the end of the current session.

At the expiration of this period, if there has been no follow-up given by the President of the Republic to the decision of the Court, the President of the

Republic shall be impeached before the High Court of Justice for insult to the National Assembly.

#### **ARTICLE 78.**

The acts anticipated in Articles 74 and 75 shall be prosecuted and punished according to the provisions of Articles 136 to 138 of the present Constitution.

### **TITLE IV LEGISLATIVE POWER**

#### **I. The National Assembly**

#### **ARTICLE 79.**

The Parliament shall be composed of a single Assembly called the National Assembly whose members shall carry the title of Deputy.

It shall exercise legislative power and shall control the action of the Government.

#### **ARTICLE 80.**

The Deputies shall be elected by direct universal suffrage. The duration of the mandate shall be four years. They may be re-elected. Each Deputy shall be the representative of the entire nation and any compulsory vote shall be void.

#### **ARTICLE 81.**

The law shall fix the number of members of the National Assembly, the conditions of eligibility, the rules of incompatibilities, and the conditions under which it shall provide for vacant seats.

The Constitutional Court shall decide supremely on the validity of the election of Deputies.

Any member of the Armed Forces or of the Public Security who desires to be a candidate for the office of Deputy must first send in his resignation from the Armed Forces or from the Public Security.

In this case, the interested party will be able to claim the benefit of rights acquired in accordance with the regulations of his organization.

#### **ARTICLE 82.**

The National Assembly shall be directed by a President assisted by an Office Staff. They shall be elected for the duration of the Legislature under conditions fixed by the Rules of Procedure of the said Assembly.

When he shall assume the interim period of the President of the Republic under the conditions provided for in Article 50 of the present Constitution, the President of the National Assembly shall be replaced in his duties in accordance with the Rules of Procedure of the Assembly.

#### **ARTICLE 83.**

In case of vacancy of the Presidency of the National Assembly by death, resignation, or any other cause, the Assembly shall elect a new President within the fifteen days following the vacancy if it is in session; should it be otherwise, it shall reconvene in full session under the conditions fixed by its Rules of Procedure.

In case of necessity, there shall be provision for the replacement of other members of the Office Staff according to the provisions of the Rules of Procedure of the said Assembly.

#### **ARTICLE 84.**

The President of the National Assembly must render an account to the National Assembly of his management and of his activities and must furnish to it any explanations that may be demanded of him.

Any Deputy may address to the President of the Assembly written or oral questions on his activities and his management.

The National Assembly may establish a commission of inquiry charged with making a detailed report to it.

According to the terms of this report, the National Assembly may demand the resignation of its President by a two-thirds majority of its members.

If this quorum shall be attained, the President of the Assembly shall be automatically dismissed from his office, while keeping his title of Deputy.

The National Assembly shall proceed within a period of fifteen days with the election of a new President.

#### **ARTICLE 85.**

If, at the opening of a session, the quorum of one half-plus one of the members composing the National Assembly shall not be attained, the session shall be postponed to the third day which follows. The deliberations shall then be valid whatever the quorum may be.

#### **ARTICLE 86.**

The sessions of the Assembly shall be valid only if they occur in the usual place of the sessions, except in the case of an unforeseeable event duly verified by the Constitutional Court.

The entire report of the debates of the National Assembly shall be published in the Official Journal.

#### **ARTICLE 87.**

The Assembly shall convene in its own right in two special sessions per year.

The first session shall open during the first fortnight of the month of April.

The second session shall open during the second fortnight of the month of October.

Each of the sessions may not exceed three months.

#### **ARTICLE 88.**

The National Assembly shall be convened in special session by its President with a specific agenda at the request of the President of the Republic or by the absolute majority of the Deputies.

The duration of an special session may not exceed fifteen days. The National Assembly may break up as soon as the agenda has been exhausted.

#### **ARTICLE 89.**

The proceedings of the National Assembly shall take place following Rules of Procedure which it shall adopt in accordance with the Constitution.

The Rules of Procedure shall determine:

-The composition, the rules for the operation of the Office, as well as the powers and prerogatives of its President;

- The number, the method of designation, the composition, the role and the competence of its permanent committees, as well as those that shall be special and temporary;
- The creation of parliamentary committees of inquiry within the framework of the control of governmental action;
- The organization of administrative services directed by an Administrative Secretary General placed under the authority of the President of the National Assembly;
- The rules of discipline of the Deputies during the sessions of the Assembly;
- The different methods of voting, with the exclusion of those expressly provided by the present Constitution.

#### **ARTICLE 90.**

The members of the National Assembly shall enjoy parliamentary immunity. As a consequence, no Deputy may be followed, searched, arrested, detained or judged for opinions or votes issued by him during the exercise of his duties.

A Deputy may, during the duration of the sessions, be followed or arrested in a criminal or correctional matter only with the authorization of the National Assembly except in the case of a flagrant offense.

A Deputy outside of the session may be arrested only with the authorization of the Office of the National Assembly, except in the case of a flagrant offense, of authorized legal actions or of final conviction.

The detention or pursuit of a Deputy shall be suspended if the National Assembly should require it for a vote by a two-thirds majority.

#### **ARTICLE 91.**

Deputies shall collect the parliamentary salaries which shall be fixed by law.

#### **ARTICLE 92.**

Any Deputy appointed to a ministerial post shall automatically lose his parliamentary mandate. The conditions for his replacement shall be fixed by law.

#### **ARTICLE 93.**

The right to vote of the Deputies shall be personal. The Rules of Procedure of the National Assembly may authorize in exceptional cases the delegation of a vote. In this instance, no one may receive the delegation for more than one term of office.

## **II. Relations Between the Assembly and the Government**

### **ARTICLE 94.**

The National Assembly shall inform the President of the Republic of the agenda of its sessions and of those of its committees.

### **ARTICLE 95.**

The members of the Government shall have access to the sessions of the National Assembly. They shall be heard at the demand of a Deputy, of a committee or at their own demand.

They may be assisted by experts.

### **ARTICLE 96.**

The National Assembly shall pass the law and consent to the taxes.

### **ARTICLE 97.**

The law shall be passed by the National Assembly by a simple majority. However, the bills on which the present Constitution shall confer the character of organic laws shall be passed and modified under the following conditions:

-The proposal or the draft shall be submitted for the deliberation and vote of the Assembly only after the expiration of a period of fifteen days after its deposit in the Office of the Assembly;

-The text may be adopted only by the majority of members comprising the Assembly;

-The organic laws may be promulgated only after a declaration by the Constitutional Court of their conformity to the Constitution.

### **ARTICLE 98.**

Under the domain of the law are the rules concerning:

-Citizenship, civic rights and the fundamental guarantees accorded to the citizens for the exercise of their public liberties; the constraints imposed, in the interest of



national defense and public security, on the citizens in their person and on their property;

-Nationality, the state and the legal competence of persons, the matrimonial property system, inheritance and gifts;

-The procedure according to which customary laws shall be recorded and brought into harmony with the fundamental principles of the Constitution;

-The determination of crimes and offenses as well as the penalties which shall be applicable to them;

-Amnesty;

-The organization of courts of all classes and the procedure followed before these courts; the creation of new classes of courts; the regulation of the magistrature, of ministerial offices and of judicial auxiliaries;

-The tax base, the rates and the methods of collection of taxes of every nature;

-The system for the issuance of currency;

-The electoral system for the President of the Republic, the members of the National Assembly and of the local Assemblies;

-The creation of categories of public establishments [i. e. independent organs charged with public duties and regulated by public law -supplied];

-The General Law of Public Office;

-The Law of Military Personnel, Public Security Forces, and the Assimiles [i. e. non-combatants ranking with the combatants -supplied];

-The general organization of the Administration;

-The territorial organization, the creation and the modification of administrative Circonscriptions [i. e. districts] as well as the apportionment of electoral districts;

-The state of siege and the state of emergency.

The law shall determine the fundamental principles:

-Of the organization of the national defense;

- Of the free administration of territorial units, of their competences and of their resources;
- Of education and of scientific research;
- Of the system of property, of real estate laws and of civil and commercial obligations;
- Of the nationalization and denationalization of enterprises and of the transfer of the ownership of enterprises from the public sector to the private sector;
- Of labor law, of social security, of the right to organize trade unions and of the right to strike;
- Of the transfer of rights and of the management of State property;
- Of the mutual insurance system and of the savings and loans institutions;
- Of the organization of production;
- Of the protection of the environment and the conservation of natural resources;
- Of the system of transportation and of telecommunications;
- Of the penal system.

#### **ARTICLE 99.**

The financial laws shall determine the receipts and expenditures of the State.

The laws of settlement shall control the execution of the financial laws, with the reservation of further verification of the accounts of the Nation by the Chambre des Comptes of the Supreme Court.

The laws to carry out a program shall fix the objectives of the economic and social action of the State.

#### **ARTICLE 100.**

Matters other than those which are in the domain of the law have a regulatory nature.

The texts of legislative procedures reached in these matters prior to the entry into force of the present Constitution may be modified by decree taken after an opinion from the Constitutional Court.

#### **ARTICLE 101.**

Declaration of war shall be authorized by the National Assembly.

When, following exceptional circumstances, the National Assembly cannot sit expediently, the decision of a declaration of war shall be taken before the Council of Ministers by the President of the Republic who shall immediately inform the nation of it.

The state of siege and the state of emergency shall be decreed in the Council of Ministers, after the advice of the National Assembly.

The extension of a state of siege or of a state of emergency beyond fifteen days may be authorized only by the National Assembly.

When the National Assembly has not been called on to reach a decision, no state of siege or state of emergency may be decreed without its authorization within the sixty days following the date of enforcement of a previous state of siege or of emergency.

#### **ARTICLE 102.**

The Government may, for the execution of its program, request the National Assembly to vote a statute authorizing it to issue by edict, during a limited period of time, measures which are normally in the domain of the statute. This authorization may be granted only by a two thirds majority of the members of the National Assembly.

The edicts shall be issued in the Council of Ministers, after the advice of the Constitutional Court. They shall enter into force upon their publication, but they shall become null and void if the bill of ratification has not been placed before the Assembly in advance of the date fixed by the enabling act.

At the expiration of the period of time mentioned in the first paragraph of the present article, the edicts may be modified only by statute in their provisions which are in the legislative domain.

#### **ARTICLE 103.**

The Deputies shall have the right of amendment.

#### **ARTICLE 104.**

Resolutions, draft bills and amendments which are not in the domain of the law shall be inadmissible.

The inadmissibility shall be pronounced by the President of the National Assembly after due deliberation of the Office [of the National Assembly].

If it appears that the proposal or the amendment would be contrary to a delegation accorded by virtue of Article 102 of the present Constitution, the Government may oppose the inadmissibility.

In case of a dispute about paragraphs 1 and 3 of the present article, the Constitutional Court, upon the request of the President of the National Assembly or the Government, shall decide within a period of eight days.

#### **ARTICLE 105.**

The initiation of bills shall belong concurrently to the President of the Republic and to the members of the National Assembly.

Government bills shall be deliberated in the Council of Ministers, after an opinion substantiated by the Supreme Court, requested in accordance with Article 132 of the present Constitution, and deposited in the Office of the National Assembly.

The bills and draft bills shall be sent before deliberation in plenary session to the suitable committee of the National Assembly for examination.

The draft budget of the National Assembly may not be examined in committee or in plenary session without having been previously submitted to the Office of the said Assembly.

#### **ARTICLE 106.**

The discussion of draft bills shall focus on the text presented by the committee. The latter, at the demand of the Government must bring to the knowledge of the National Assembly the points on which there is disagreement with the Government.

#### **ARTICLE 107.**

Resolutions and amendments made by the Deputies shall not be admissible when their adoption would have as a consequence either a diminution of public

resources or the creation of, or the increase of a public charge unless they shall be accompanied by a proposal for the increase of receipts or of equivalent savings.

#### **ARTICLE 108.**

The Deputies may, by a three-fourths majority vote, decide to submit any question to a referendum.

#### **ARTICLE 109.**

The National Assembly shall vote on the appropriations bill under conditions determined by the law. The National Assembly shall submit an appropriations bill at least one week before the opening of the October session. The appropriations bill must provide for the revenue necessary for the full coverage of the expenses.

#### **ARTICLE 110.**

The National Assembly shall vote a balanced budget. If the National Assembly has not come to a decision by December 31, the provisions of the appropriations bill may be enforced by edict.

The Government shall submit the matter for ratification to the National Assembly called into extraordinary session within a period of fifteen days.

If the National Assembly shall not vote the budget at the end of this extraordinary session, the budget shall be established permanently by edict.

#### **ARTICLE 111.**

If the appropriations bill cannot be promulgated before the beginning of the budget year, the President of the Republic shall demand immediately from the National Assembly the authorization to manage the receipts and expenses of the State temporarily by “douziemes provisoires”.

#### **ARTICLE 112.**

The National Assembly shall regulate the accounts of the nation according to the modalities provided by the organic financial law.

In this effort it shall be assisted by the Chambre des Comptes of the Supreme Court which it shall charge with all inquiries and studies relating to the management of receipts and public expenditures whether of the management of the national treasury, of the territorial communities, or of the administrations or institutions dependent on the State or submitted to its control.

### **ARTICLE 113.**

The Government shall be obliged to furnish to the National Assembly all explanations which shall be demanded of it concerning its management and its activities.

The means of information and of control of the Nations Assembly on governmental action shall be:

- The interpellation in accordance with Article 71;
- The written question;
- The oral question with or without debate, and not followed by a vote;
- The parliamentary committee of inquiry.

These means shall be exercised under the conditions determined by the Rules of Procedure of the National Assembly.

### **TITLE V**

#### **THE CONSTITUTIONAL COURT**

### **ARTICLE 114.**

The Constitutional Court shall be the highest jurisdiction of the State in constitutional matters. It shall be the judge of the constitutionality of the law and it shall guarantee the fundamental human rights and the public liberties. It shall be the regulatory body for the functioning of institutions and for the activity of public authorities.

### **ARTICLE 115.**

The Constitutional Court shall be composed of seven members, four of whom shall be appointed by the Office of the National Assembly and three by the President of the Republic for a term of five years renewable only one time. No member of the Constitutional Court may sit for more than ten years.

In order to be a member of the Constitutional Court, besides the condition of professional competence, one must have good morals and great honesty.

The Constitutional Court shall include:

-Three magistrates having at least fifteen years of experience, two of whom shall be appointed by the Office of the National Assembly and one by the President of the Republic;

-Two high level jurists, professors or practicing lawyers having at least fifteen years of experience, one appointed by the Office of the National Assembly and the other by the President of the Republic.

-Two persons of great professional reputation, one appointed by the Office of the National Assembly and the other by the President of the Republic.

The members of the Constitutional Court shall be irremovable for the duration of their term of office. They may not be prosecuted or arrested without the authorization of the Constitutional Court and the Office of the Supreme Court sitting in joint session except in cases of flagrant offence. In these cases the matter must be referred to the President of the Constitutional Court and to the President of the Supreme Court immediately and within forty-eight hours at the latest.

The duties of a member of the Constitutional Court are incompatible with the position of a member of the Government, with the exercise of any elective mandate, with all public employment - civil or military, with any other professional activity as well as with any office of national representation except in the situation provided for in Article 50 paragraph 3.

An organic law shall determine the organization and operation of the Constitutional Court, the procedure followed before it, especially the periods of time for appeals to it as well as the immunities and the disciplinary regulation of its members.

#### **ARTICLE 116.**

The President of the Constitutional Court shall be elected by his peers among the magistrates and the jurists members of the Court for a term of five years.

#### **ARTICLE 117.**

The Constitutional Court shall

Rule obligatorily on:

-The constitutionality of organic laws and of laws in general in advance of their promulgation;

-The Rules of Procedure of the National Assembly, of the High Authority of Audio-Visuals and Communications, and of the Economic and Social Council in advance of their enforcement with regard to their conformity to the Constitution;

-The constitutionality of laws and regulatory acts deemed to infringe on fundamental human rights and on public liberties, and in general on the violation of the rights of the individual;

-The conflicts of prerogatives between the institutions of the State.

-Oversee the regularity of the election of the President of the Republic; examine the objections; rule on the irregularities that it may have found itself, and proclaim the results of the balloting; rule on the regularity of the referendum and proclaim its results;

-Rule, in contested cases, on the regularity of legislative elections;

-Make up the legal portion of the High Court of Justice with the exception of its President.

#### **ARTICLE 118.**

It shall be equally competent to rule on the situations provided for in Articles 50, 52, 57, 77, 86, 100, 102, 104 and 147.

#### **ARTICLE 119.**

The President of the Constitutional Court shall be competent to:

-Hear the oath of the President of the Republic in the situations provided for in Articles 58 and 68;

-Stabilize the interim period of the President of the Republic in the situation provided for in Article 50 paragraph 3.

#### **ARTICLE 120.**

The Constitutional Court must rule within a period of fifteen days after it has been made cognizant of a text of a bill or of a complaint of the violation of human rights and of public liberties. However, at the demand of the Government, if there is an emergency, this period shall be reduced to eight days. In this case, the submission of the matter to the Constitutional Court shall suspend the deadline for the promulgation of the law.



## **ARTICLE 121.**

The Constitutional Court, at the request of the President of the Republic or of any member of the National Assembly, shall give its opinion on the constitutionality of laws in advance of their promulgation.

It shall give its opinion automatically on the constitutionality of laws and of any regulatory text deemed to infringe on the fundamental human rights and on the public liberties. It shall decide more generally on the violations of the rights of the individual and its decision must be reached within a period of eight days.

## **ARTICLE 122.**

Any citizen may complain to the Constitutional Court about the constitutionality of laws whether directly or whether by the procedure of the exception of unconstitutionality invoked in a matter which concerns him before a court of law. This must grant a stay until the decision of the Constitutional Court which must be reached within a period of thirty days.

## **ARTICLE 123.**

The organic laws in advance of their promulgation; the Rules of Procedure of the National Assembly, of the High Authority of Audio-Visuals and of Communications, and of the Economic and Social Council before their enforcement must be submitted to the Constitutional Court which shall give its decision on their conformity to the Constitution.

## **ARTICLE 124.**

A provision declared unconstitutional may not be promulgated or enforced.

The decision of the Constitutional Court shall not be subject to any appeal.

They shall be imperative for public authorities and for all civil, military, and jurisdictional authorities.

## **TITLE VI**

### **JUDICIAL POWER**

## **ARTICLE 125.**

Judicial power shall be independent of the legislative power and of the executive power.

It shall be exercised by the Supreme Court, and Courts and Tribunals created in accordance with the present Constitution.

#### **ARTICLE 126.**

Justice shall be rendered in the name of the Béninese people.

The judges, in the exercise of their duties, shall be subject only to the authority of the law. Sitting magistrates shall be irremovable.

#### **ARTICLE 127.**

The President of the Republic shall be the guarantor of the independence of justice.

He shall be assisted by the Superior Council of the Magistrature.

#### **ARTICLE 128.**

The Superior Council of the Magistrature shall rule as Disciplinary Council of the Magistrates.

The composition, prerogatives, organization and functioning of the Superior Council of the Magistrature shall be fixed by an organic law.

#### **ARTICLE 129.**

The Magistrates shall be appointed by the President of the Republic upon the motion of the Guard of the Seals, the Minister of Justice, after the advice of the Superior Council of the Magistrature.

#### **ARTICLE 130.**

The Superior Council of the Magistrature shall study the documents for pardon and shall transmit them with its reasoned opinion to the President of the Republic.

### **I. THE SUPREME COURT**

#### **ARTICLE 131.**

The Supreme Court shall be the highest court of law of the State in administrative and judicial matters and the management of the accounts of the State.

It shall be equally competent in that which concerns disputed matters in local elections.

The decisions of the Supreme Court shall not be subject to any appeal.

They shall be imperative on executive power, on legislative power, as well as on all court of law.

#### **ARTICLE 132.**

The Supreme Court shall be consulted by the Government more generally in all administrative and jurisdictional matters.

It may, at the demand of the Chief of State, be charged with the drafting and the modification of all legislative and regulatory texts prior to their examination by the National Assembly.

#### **ARTICLE 133.**

The President of the Supreme Court shall be appointed for a term of five years by the President of the Republic from among the Magistrates and high level jurists having at least fifteen years of professional experience upon the advice of the President of the National Assembly and by decree taken in the Council of Ministers.

He shall be irremovable during the duration of his mandate which shall be renewable only one time.

The functions of the President of the Supreme Court shall be incompatible with the qualification of a member of the Government, with the exercise of any elective mandate, with any public employment -civil or military, with any other professional activity, as well as with any office of national representation.

#### **ARTICLE 134.**

The Presidents of the Chamber and his Councilors shall be appointed from among the Magistrates and high-level jurists having at least fifteen years of professional experience by decree taken in the Council of Ministers by the President of the Republic, on a motion of the President of the Supreme Court and after the advice of the Superior Council of the Magistrature.

The law shall determine the status of the Magistrates of the Supreme Court.

## **II. THE HIGH COURT OF JUSTICE.**

#### **ARTICLE 135.**

The High Court of Justice shall be composed of members of the Constitutional Court, with the exception of its President, and of six Deputies elected by the National Assembly and by the President of the Supreme Court.

The High Court shall elect from its midst its President.

An organic law shall fix the rules of its functioning as well as the procedure to be followed before it.

#### **ARTICLE 136.**

The High Court of Justice shall be competent to judge the President of the Republic and the members of the Government by reason of blatant charges of high treason, of infractions committed in the exercise of or on the occasion of the exercise of their duties, as well as to judge their accomplices in case of a plot against the security of the State.

The regular courts shall remain competent for infractions perpetrated outside the exercise of their duties and for which they shall be criminally responsible.

#### **ARTICLE 137.**

The High Court of Justice shall be bound by the definition of the infractions and by the determination of penalties resulting from the penal laws in force at the time of the acts.

The decision to prosecute taken after the indictment of the President of the Republic and of the members of the Government shall be voted by a two-thirds majority of the Deputies composing the National Assembly according to the procedure provided by the Rules of Procedure of the National Assembly. The investigation shall be conducted by the Magistrates of the Chambre d'Accusation of the Court of Appeals having jurisdiction over the location of the seat of the National Assembly.

#### **ARTICLE 138.**

The President of the Republic and the members of the government shall be suspended from their duties in case of an indictment for high treason, insult to the National Assembly, and any injury to honor and honesty. In case of conviction, they shall forfeit their offices.

### **TITLE VII**

#### **THE ECONOMIC AND SOCIAL COUNCIL**

#### **ARTICLE 139.**

The Economic and Social Council shall give its opinion on Government bills, ordinances or decrees as well as on the private bills which are submitted to it.

Government bills of a program with an economic or social character shall be obligatorily submitted to it for advice.

The President of the Republic may consult the Economic and Social Council on any problem of an economic, social, cultural, scientific and technical nature.

The Economic and Social Council may, on its own initiative in the form of a recommendation, draw the attention of the National Assembly and of the Government to reforms of the economic and social order which appear to it to be consistent with or contrary to the general interest.

Upon the demand of the Government, the Economic and Social Council shall designate one of its members to set forth before the Committees of the National Assembly the opinion of the Council on Government bills or private bills which have been submitted to it.

#### **ARTICLE 140.**

The Economic and Social Council shall elect from its midst its President and the members of its Office.

The composition, organization and the functioning of the Economic and Social Council shall be fixed by an organic law.

#### **ARTICLE 141.**

The members of the Economic and Social Council shall collect compensation for the session and travel allowances.

The amount of this compensation shall be fixed by a decree taken in the Council of Ministers.

### **TITLE VIII**

#### **THE HIGH AUTHORITY OF AUDIO-VISUALS AND COMMUNICATIONS.**

#### **ARTICLE 142.**

The High Commission of Audio-Visuals and communications shall have as its mission to guarantee and assure the freedom and the protection of the press, as well as all of the means of mass communication with respect to the law.

It shall keep watch in respect to the deontology [ethics] in the matter of information and of the equitable access of political parties, of associations and of citizens to official means of news and communication.

#### **ARTICLE 143.**

The President of the High Authority of Audio-Visuals and Communication shall be appointed, after consultation of the President of the National Assembly, by decree taken in the Council of Ministers.

The composition, prerogatives, organization and functioning of the High Authority of Audio-Visuals and Communications shall be fixed by an organic law.

### **TITLE IX**

#### **TREATIES AND INTERNATIONAL AGREEMENTS**

#### **ARTICLE 144.**

The President of the Republic shall negotiate and ratify treaties and international agreements.

#### **ARTICLE 145.**

Peace treaties, treaties or agreements relating to international organization, those which involve the finances of the State, those which modify the internal laws of the State, those which allow transfer, exchange or addition of territory may be ratified only in accordance with a law.

No transfer, no exchange, nor addition of territory shall be valid without the consent of the interested populations.

#### **ARTICLE 146.**

If the Constitutional Court, upon a submission by the President of the Republic or by the President of the National Assembly, shall have decided that an international obligation allows a clause contrary to the Constitution, the authorization to ratify it may occur only after the revision of the Constitution.

#### **ARTICLE 147.**

Treaties or agreements lawfully ratified shall have, upon their publication, an authority superior to that of laws, without prejudice for each agreement or treaty in its application by the other party.

#### **ARTICLE 148.**

The Republic of Bénin may conclude with other States agreements of cooperation or of association based on the principles of equality, of mutual respect for sovereignty, of reciprocal advantages and of national dignity.

**ARTICLE 149.**

The Republic of Bénin, anxious to realize African unity, may conclude any agreement of sub-regional or regional integration in accordance with Article 145.

**TITLE X**

**TERRITORIAL UNITS**

**ARTICLE 150.**

Territorial units of the Republic shall be created by law.

**ARTICLE 151.**

These units shall administer themselves freely by elected councils and under conditions provided by the law.

**ARTICLE 152.**

No expenditure for the sovereignty of the State will be charged to their budget.

**ARTICLE 153.**

The State shall watch over the harmonious development of the all the territorial units based on national solidarity, regional potentialities, and inter-regional equilibrium.

**TITLE XI**

**REVISION**

**ARTICLE 154.**

The initiative for the revision of the Constitution shall belong concurrently to the President of the Republic, after a decision taken in the Council of Ministers, and to the members of the National Assembly.

In order to be taken into consideration, the draft or proposal of revision must be voted by a three-fourths majority of the members composing the National Assembly.

**ARTICLE 155.**

The revision shall be agreed to only after having been approved by referendum, unless the draft or the proposal involved shall have been approved by a four-fifths majority of the members composing the Assembly.

#### **ARTICLE 156.**

No procedure for revision may be instituted or continued when it shall undermine the integrity of the territory.

The republican form of government and the secularity of the State may not be made the object of a revision.

### **TITLE XII**

#### **FINAL TRANSITIONAL PROVISIONS**

#### **ARTICLE 157.**

The present Constitution must be promulgated within eight days after its adoption in the referendum.

The President of the Republic must take office; the National Assembly must convene at the latest on April 1, 1991.

The High Council of the Republic and the transitional Government shall continue to exercise their functions until the new institutions are established.

The oath of office of the President of the Republic shall be received by the President of the High Council of the Republic in plenary Assembly.

The National Assembly shall be installed by the President of the High Council of the Republic in the presence of the members of the said Council.

#### **ARTICLE 158.**

The legislation in force in Bénin until the setting in place of the new institutions shall remain applicable except for the intervention of new texts in which there is nothing contrary to this present Constitution.

#### **ARTICLE 159.**

The present Constitution shall be submitted to a referendum.

The necessary arrangements for its application shall be the objective, whether by laws voted by the High Council of the Republic, or whether by decrees issued by the Council of Ministers. The prerogatives passed on by the present Constitution to



the Constitutional Court shall be exercised by the High Court of the Republic until the installation of the new institutions.

**ARTICLE 160.**

The present law shall be enforced as the Constitution of the Republic of Bénin.

Done at Cotonou, December 11, 1990

By the President of the Republic,  
Chief of State, Mathieu Kerekou

The Prime Minister  
Head of Government  
Nicephore Soglo

The Minister of Justice  
and of the Legislation  
Yves Yehoussi