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Congo (Democratic Republic of the)'s Constitution of 2005 with Amendments through 2011

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Preamble

We, the Congolese People,

United by destiny and history encompassing the noble ideas of liberty, of fraternity, of solidarity, of justice, of peace and of work;

Animated by our common will to build, in the heart of Africa, a State of Law and a powerful and prosperous Nation, founded on a real political, economic, social and cultural democracy;

Considering that injustice and its corollaries, impunity, nepotism, regionalism, tribalism, clanism and patronage, by their multiple vicissitudes, are at the origin of the general decline of values and of the ruin of the country;

Affirming our determination to protect and to consolidate the national independence and unity with respect for our diversities and for our positive particularities;

Reaffirming our adherence and our attachment to the Conventions of the United Nations on the Rights of the Child and on the Rights of Women, particularly to the objective of the parity of man-woman representation within the institutions of the country as well as to the international instruments concerning the protection and promotion of human rights;

Moved by the will to see all the African States united and working in concert with a view of promoting and of consolidating African unity through the continental, regional or sub-regional organizations to offer better perspectives of development and of socio-economic progress to the Peoples of Africa;

Attached to the promotion of mutually advantageous international cooperation and to the rapprochement of the peoples of the world, with respect to their respective identities and to the principles of sovereignty and of the territorial integrity of each State;

Reaffirming our inalienable and imprescriptible right to organize ourselves freely and to develop our political, economic, social and cultural life, following our own genius;

Conscious of our responsibilities before God, the Nation, Africa and the World;

Solemnly declare to adopt this Constitution.

TITLE I: OF THE GENERAL PROVISIONS

Chapter 1: Of the State and Sovereignty

Section 1: Of the State

Article 1

The Democratic Republic of the Congo is, within its frontiers of 30 June 1960, a State of Law, independent, sovereign, united and indivisible, social, democratic and secular.

Its emblem is the sky-blue flag decorated with a yellow star in the superior left corner and transversed on the bias by a red band finely outlined in yellow.

- National motto

Its motto is "Justice-Paix-Travail" [Justice-Peace-Work]

Its coat of arms consists of the head of a leopard framed on the left and, to the right by, an ivory tusk and by a spear, all of which rest on a pier.
- National anthem

The national anthem is "Debout Congolais!" [Arise Congolese!]

Its currency is "le Franc congolais" [the Congolese Franc]
- Official or national languages

Its official language is French.
- Official or national languages

The national languages are Kikongo, Lingala, Swahili and Tshiluba. The State assures their promotion without discrimination.
- Protection of language use

The other languages of the country are made part of the Congolese cultural patrimony of which the State assures the protection.

Article 2

The Democratic Republic of the Congo is composed of the City of Kinshasa and of 25 Provinces endowed with juridical personality.

These Provinces are: Bas-Uele, Equateur, Haut-Lomami, Haut-Katanga, Haut-Uele, Ituri, Kasai, Kasai Oriental, Kongo central, Kwango, Kwilu, Lomami, Lualaba, Kisai Central, Mai-Ndombe, Maniema, Mongala, Nord-Kivu, Nord-Ubangi, Sankuru, Sud Kivu, Sud Ubangi, Tanganyika, Tshopo, Tshuapa.

- National capital

Kinshasa is the capital of the country and the seat of the national institutions. It has the status of a Province. The capital may only be transferred to another place in the country by way of referendum.

The division of competences between the State and the Provinces is effected conforming to the provisions of Title III of this Constitution.

The boundaries of the Provinces and those of City of Kinshasa are established by an organic law.

Article 3

The Provinces and the decentralized territorial entities of the Democratic Republic of the Congo are endowed with juridical personality and are administered by the local organs.

These decentralized territorial entities are the city, the commune, the sector and the chefferie [head man's district]

They enjoy free administration autonomy of management of their economic, human, financial and technical resources.

The composition, the organization [and] the functioning of these decentralized territorial entities as well as their relations with the State and the Provinces are established by an organic law.

Article 4

New Provinces and territorial entities may be created by division or by reorganization under the conditions specified by the Constitution and by the law.

Section 2: Of Sovereignty

Article 5

National sovereignty belongs to the people. All power emanates from the people who exercise it directly by way of referendum or [by] elections and indirectly by their representatives.

No fraction of the people or any individual may arrogate its exercise.

The law establishes the conditions of organization of the elections and of the referendum. Suffrage is universal, equal and secret. It is direct or indirect.

Without prejudice to the provisions of Articles 72, 102 and 106 of this Constitution, all Congolese of both sexes, of eighteen years of age [at least], and enjoying their civil and political rights are electors and eligible, under the conditions determined by the law.

Article 6

Political pluralism is recognized in the Democratic Republic of the Congo.

All Congolese enjoying their civil and political rights have the right of creating a political party or to affiliate themselves to a political party of their choice.

The political parties participate in the expression of suffrage, in the reinforcement of the national conscience and of the civic education. They form and exercise their activities freely with respect for the law, for public order and for morality.

The political parties are held to the respect for the principles of pluralist democracy, of national unity and of national sovereignty.

The political parties may receive from the State public funds designated to finance their electoral campaigns or their activities, under the conditions defined by the law.

Article 7

No one may institute, in any form that may be, a sole party on all or part of the national territory.

The institution of a sole party constitutes an imprescriptible infraction of high treason punishable by the law.

Article 8

Political opposition is recognized in the Democratic Republic of the Congo. The rights connected to its existence, to its activities and to its struggle for the democratic conquest of power are sacred. They may not be subject to limits other than those imposed on all political parties and activities by this Constitution and the law.

An organic law establishes the status of the political opposition.

Article 9

The State exercises a permanent sovereignty notably over the soil, the subsoil, the waters and the forests, over the air, river, lakes and maritime spaces of the Congo as well as over the Congolese territorial sea and over the continental shelf.

- Secret ballot
- Referenda
- Restrictions on voting
- Claim of universal suffrage

- Restrictions on political parties
- Right to form political parties

- Campaign financing

- Preferred political parties

- Ownership of natural resources

The modalities of management and of concession of the domain of the State specified in the preceding paragraph are determined by the law.

Chapter 2: Of Nationality

Article 10

Congolese nationality is one and exclusive. It may not be held concurrently with any other.

The Congolese nationality is either of origin, or by individual acquisition.

Any person belonging to an ethnic group of which the members [personnes] and the territory are constituent to that which became the Congo (presently the Democratic Republic of the Congo) at independence, is Congolese of origin.

TITLE II: OF HUMAN RIGHTS, OF FUNDAMENTAL FREEDOMS AND OF THE DUTIES OF THE CITIZEN AND OF THE STATE

Chapter 1: Of Civil and Political Rights

Article 11

All human beings are born free and equal in dignity and in rights. However, the enjoyment of political rights is recognized to Congolese only, save for the exceptions established by the law.

Article 12

All Congolese are equal before the law and have the right to equal protection of the laws.

Article 13

No Congolese person may, in matters of education or of access to public functions or any other matter, be subject to a discriminatory measure, that results from the law or from an act of the executive, for reason of his religion, of his family origin, of his social condition, of his residence, of his opinion or political convictions, or his belonging to a certain race, to an ethnicity, to a tribe, [or] to a cultural or linguistic minority.

Article 14

The public powers see to the elimination of any form of discrimination concerning women and assure the protection and the promotion of their rights.

They take, in all the domains, notably in the civil, political, economic, social and cultural domains, all the measures appropriate to assure the total realization and full participation of women in the development of the Nation.

They take measures to struggle against all forms of violence made against women in public and in private life.

Women have the right to an equitable representation within the national, provincial and local institutions. The State guarantees the implementation of man-woman parity in these said institutions.

The law establishes the modalities of application of these rights.

Article 15

The public powers see to the elimination of sexual violence.

Without prejudice to international treaties and agreements, any sexual violence made against any person, with the intention to destabilize, [or] to dislocate a family and to make a whole people disappear is established as a crime against humanity punishable by the law.

Article 16

The human person is sacred. The State has the obligation to respect it and to protect it.

All persons have the right to life, to physical integrity as well as to the free development of their personality, under respect for the law, of public order, of the rights of others and of public morality.

No one may be held in slavery or in an analogous condition.

No one may be subjected to cruel, inhuman or degrading treatment.

No one may be subjected to forced or compulsory labor.

Article 17

Individual liberty is guaranteed. It is the rule[;] detention the exception.

One may only be prosecuted, arrested, detained or sentenced by virtue of a law and in the form that it specifies.

No one may be prosecuted for an act or an omission which did not constitute an infraction at the time it was committed and at the time of the prosecution.

No one may be sentenced for an act or an omission which did not constitute an infraction of the law at the time it was committed and at the time of the sentencing.

One may not be inflicted with a punishment harsher than that applicable at the time the infraction was committed.

The punishment ceases to be executed when[,] by virtue of a law subsequent to the judgment:

1. it is suppressed;
2. the act for which it was declared no longer has the character [of an] infraction.

In the case of reduction of the punishment by virtue of a law subsequent to the judgment, the punishment is executed in accordance with the new law.

Criminal responsibility is individual. No one may be prosecuted, arrested, detained or sentenced for an act of others.

Any person accused of an infraction of the law is presumed innocent until his culpability has been established by a definitive judgment.

Article 18

Any arrested person must be immediately informed of the reasons for his arrest and of any accusation made against him, in the language which he understands.

He must be immediately informed of his rights.

A detained person has the right to enter immediately in contact with his family or with his counsel.

Detention may not exceed forty-eight hours. At the expiration of this period, the person detained must be released or placed at the disposition of the competent judicial authority.

Any detainee must benefit from a treatment which preserves his life, his physical and mental health as well as his dignity.

Article 19

No person may be relocated or transferred against the will of the judge that the law assigns to him.

All persons have the right that their case will be heard within a reasonable time by the competent judge.

The right to defense is organized and guaranteed.

All persons have the right to defend themselves or to be assisted by a defender of their choice, at all stages of the criminal procedure, and including the police inquiry and the investigation before trial.

They may be assisted equally before the security services.

Article 20

The audiences of the courts and tribunals are public unless this publicity is judged dangerous for public order or morality. In this case, the tribunal orders closed [audiences].

Article 21

All judgments are written and substantiated. They are pronounced in a public audiences.

The right to recourse against a judgment is guaranteed to all. It is exercised within the conditions established by the law.

Article 22

All persons have the right to freedom of thought, of conscience and of religion.

All persons have the right to manifest their religion or their convictions, alone or as a group, both in public and in private, by worship, teaching, practices, the accomplishment of rites and the state of religious life, under reserve of respect for the law, for public order, for morality and for the rights of others.

The law establishes the modalities for the exercise of these freedoms.

Article 23

All persons have the right to freedom of expression.

This right implies the freedom to express their opinions or their convictions, notably by speech, print and pictures, under reserve of respect for the law, for public order and for morality.

Article 24

All persons have the right to information.

The freedom of the press, the freedom of information and of broadcasting by radio and television, the written press or any other means of communication are guaranteed, under reserve of respect for the law, for public order, for morals and for the rights of others.

The law determines the modalities of exercise of these freedoms.

The audiovisual and written media of the State are public services the access to which is guaranteed in an equitable manner to all the political and social movements. The status of the media of the State is established by the law which guarantees the objectivity, the impartiality and the pluralism of opinion in the treatment and diffusion of information.

Article 25

The freedom of meetings[,] peaceful and without arms[,] is guaranteed under reserve of respect for the law, for public order and for morality.

Article 26

The freedom of demonstration is guaranteed.

All demonstrations on public roads or in [the] open air require the organizers to inform the competent administrative authority in writing.

No one may be forced to take part in a demonstration.

The law determines the measures of application.

Article 27

All Congolese have the right to address, individually or collectively, a petition to the public authority which responds to it within three months.

No one may be made the subject of discrimination, in any form that may be, for having taken such an initiative.

Article 28

No one is required to execute a manifestly illegal order. Every individual, every State agent is relieved from the duty to obey, when an order received constitutes a manifest infringement of the respect of the rights of man and of the public freedoms and of morality.

The proof of the manifest illegality of the order is incumbent on the person who refuses to execute it.

Article 29

The domicile is inviolable. Entry or searches may only be effected in the forms and the conditions specified by the law.

Article 30

All persons who are on the national territory have the right to circulate freely in it, to establish their residence in it, to leave it and to return to it, under the conditions established by the law.

No Congolese may be expelled from the territory of the Republic, or forced into exile, or forced to live outside his habitual residence.

Article 31

All persons have the right to the respect of their private life and to the secrecy of their correspondence, of telecommunications and of any other form of communication. This right may only be infringed in the cases specified by the law.

Article 32

All foreigners who find themselves legally on the national territory enjoy the protection granted to persons and to their assets under the conditions determined by the treaties and the laws.

They are required to conform to the laws and regulations of the Republic.

Article 33

The right to asylum is recognized.

The Democratic Republic of the Congo grants, under reserve of national security, asylum on its territory to foreign nationals, prosecuted or persecuted, notably, for their opinion, their belief, their racial, tribal, ethnic, linguistic affiliation or for their action in favor of democracy and for the defense of the Rights of Man and of Peoples, in accordance with the laws and regulations in force.

It is forbidden that any person regularly in enjoyment of the rights of asylum undertake any subversive activity against their country of origin or against any other country, from the territory of the Democratic Republic of the Congo.

Refugees may neither be remitted to the authority of the State where they are prosecuted nor sent back to the territory of the latter.

In no case may a person be turned over to the territory of a State in which they risk torture, [or] cruel, degrading or inhuman punishment or treatment.

The law establishes the modalities of the exercise of this right.

Chapter 2: Of Economic, Social and Cultural Rights

Article 34

Private property is sacred.

The State guarantees the right to individual or collective property, acquired in conformity to the law or to custom.

- Regulation of evidence collection
- Right to privacy

- Freedom of movement

- Right to privacy
- Telecommunications

- Protection of stateless persons

- Right to own property

It encourages and sees to the security of private investments, national and foreign.

One may only be deprived of his property for reasons of public utility and in return for a just and prior indemnity conceded under the conditions established by the law.

One may only have their assets seized by virtue of a decision taken by competent judicial authority.

Article 35

The State guarantees the right to private initiative to both nationals and to foreigners.

It encourages the exercise of small commerce, of art and of artisanship by the Congolese and sees to the protection and to the promotion of national expertise and competences.

The law establishes the modalities of exercise of this right.

Article 36

Work is a sacred right and duty for each Congolese.

The State guarantees the right to work, protection against unemployment and an equitable and satisfactory remuneration, assuring the worker as well as his family of an existence in accordance with human dignity, together with all the other means of social protection, notably retirement pension[s] and life annuities.

No one may discriminated against [leser] in their work because of their origin, their sex, their opinions, their beliefs or their socio-economic condition.

All Congolese have the right and the duty to contribute through their work to the national construction and prosperity.

The law establishes the status of workers and regulates the particulars concerning the juridical regime of the professional orders and the exercise of professions which require a scholastic or academic qualification.

The internal structures and the functioning of the professional orders must be democratic.

Article 37

The State guarantees the freedom of association.

The public powers collaborate with the associations which contribute to the social, economic, intellectual, moral and spiritual development of the population and to the education of the citizens [masculine] and the citizens [feminine]

This collaboration may take the form of a subsidy.

The law establishes the modalities of the exercise of this freedom.

Article 38

The syndical right is recognized and is guaranteed.

All Congolese have the right to found trade unions or to affiliate with them freely, under the conditions established by the law.

Article 39

• Protection from expropriation

• Protection from expropriation

• Right to work
• Right to equal pay for work

• Duty to work

• Freedom of association

• Right to join trade unions

• Right to strike

The right to strike is recognized and guaranteed.

It is exercised under the conditions specified by the law which can forbid it or limit its exercise in the domains of national defense and of security or for any [public] activity or public service of vital interest for the Nation.

Article 40

Each individual has the right to marry with the person of their choice, of the opposite sex, and to establish a family.

The family, the basic unit of the human community, is organized in a manner to assure its unity, its stability and its protection. It is placed under the protection of the public powers.

The care and the education to be given to the children constitute, for the parents, a natural right and a duty which they exercise under the surveillance [and] with the aid of the public powers.

The children have the duty to assist their parents.

The law establishes the rules concerning marriage and the organization of the family.

Article 41

Every person, without distinction of sex, who is not more than 18 years of age, is a minor.

All minors have the right to know the names of their father and of their mother.

They have, equally, the right to enjoy the protection of their family, of society and of the public powers.

The abandonment and maltreatment of children, notably pedophilia, sexual abuse as well as the accusation of witchcraft, are prohibited and punishable by law.

The parents have the duty to take care of their children and to assure them of their protection against any act of violence both inside and outside their home.

The public powers have the obligation to assure protection to children in a difficult situation and to bring, to justice, the authors and their accomplices of acts of violence concerning children.

All others forms of exploitation of minors are punished by the law.

Article 42

The public powers have the obligation to protect youth against any infringement of their health, of their education or of their integral development.

Article 43

All persons have the right to a scholastic education. It is provided by national education.

National education consists of public establishments and approved private establishments.

The law establishes the conditions of creation and of functioning of these establishments.

The parents have the right to choose the mode of education to be given to their children.

Primary education is obligatory and free in the public establishments.

Article 44

The eradication of illiteracy is a national duty [for] the realization of which the Government must elaborate a specific program.

Article 45

Education is free.

It is nevertheless subject to the supervision of the public powers, under the conditions established by the law.

All persons have access to establishments of national education, without discrimination of place of origin, of race, of religion, of sex, of political or philosophical opinions, of their physical, mental or sensorial state in accordance with their capacities.

The national education establishments shall assure, in cooperation with the religious authorities, to their minor pupils[,] and having parents demanding it[,] an education conforming to their religious convictions.

The public authorities have the duty to promote and to assure, through teaching, education and diffusion, the respect of the rights of man, of the fundamental freedoms and of the duties of the citizens provided by this Constitution.

The public powers have the duty to assure the diffusion and the teaching of the Constitution, the Universal Declaration of the Rights of Man, the African Charter of the Rights of Man and of Peoples, as well as all the duly ratified regional and international conventions concerning the rights of man and to international humanitarian law.

The State has the obligation to integrate the rights of the human person into all the training programs of the armed forces, of the police and of the security services.

The law determines the conditions of application of this article.

Article 46

The right to culture, to freedom of intellectual and artistic creation, and that of scientific and technological research are guaranteed, under reserve of respect for the law, for public order and for morality.

Copyrights and intellectual property [rights] are guaranteed and protected by the law.

The State takes into account, in carrying out its tasks, of the cultural diversity of the country.

It protects the national cultural patrimony and assures its promotion.

Article 47

The right to health and to [a] secure food supply is guaranteed.

The law specifies the fundamental principles and the rules of organization for public health and [a] secure food supply.

Article 48

The right to decent housing, the right of access to drinking water and to electric energy are guaranteed. The law establishes the modalities of the exercise of these rights.

Article 49

The elderly person and the handicapped person have the right to specific measures of protection concerning their physical, intellectual and moral needs.

The State has the duty to promote the presence of handicapped persons within national, provincial and local institutions.

An organic law determines the modalities of application of this right.

Chapter 3: Of Collective Rights

Article 50

The State protects the legitimate rights and interests of Congolese who are both inside and outside the country.

Under reserve of reciprocity, any foreigner who finds himself legally on the national territory enjoys the same rights and freedoms as a Congolese, the political rights excepted.

They benefit from the protection granted to persons and their assets under the conditions determined by the treaties and the laws.

They are required to conform to the laws and regulations of the Republic.

Article 51

The State has the duty to assure and to promote the peaceful and harmonious coexistence of all the ethnic groups of the country.

It assures equally the protection and the promotion of vulnerable groups and of all minorities.

It sees to their development.

Article 52

All Congolese have the right to peace and to security, both on the national as well as on the international level [plan].

No individual or group of individuals may use a part of the national territory as a base of operation for subversive or terrorist activities against the Congolese State or any other State.

Article 53

All persons have the right to a healthy environment and [one] propitious for their integral development.

They have the duty to defend it.

The State sees to the protection of the environment and the health of the population.

Article 54

The conditions for the construction of industrial plants, of facilities for storage, for the handling, the incineration and for the removal of toxic, polluting or radioactive waste produced by industrial units or workshops established on the national territory are established by the law.

Any pollution or destruction resulting from an economic activity gives rise to compensation and/or to reparation.

The law determines the nature of the compensatory measures and reparatory [measures] as well as the modalities of their execution.

Article 55

The transportation, the importation, the storage, the spilling [or] the disposal in the internal waters or maritime spaces under national jurisdiction, [or] the release into the airspace[,] of toxic, polluting or radioactive waste or of any other dangerous product, of foreign origin [provenance] or not, constitutes a crime punishable by the law.

Article 56

Any act, any agreement, any convention, any arrangement or any other act which has the consequence of depriving the Nation [or] physical or moral persons of all or part of their means of existence drawn from their natural resources or their wealth, is established, without prejudice to the international provisions on economic crimes, as the crime of pillage punishable by the law.

Article 57

The acts referred to in the preceding article as well as the attempt of them, whatever their modalities may be, if they are acts of a person invested with public authority[,] are punishable as infractions of high treason.

Article 58

All Congolese have the right to enjoy the national wealth.

The State has the duty to redistribute it equitably and to guarantee the right to development.

Article 59

All Congolese have the right to enjoy the common patrimony of humanity. The State has the duty to facilitate the enjoyment of it.

Article 60

The respect of the rights of man and of the fundamental freedoms consecrated in the Constitution is imposed on the public powers and on every person.

Article 61

In no case, even when the state of siege or the state of urgency has been proclaimed in accordance with Articles 85 and 86 of this Constitution, can there be derogation of the rights and fundamental principles enumerated as follows:

1. the right to life;
2. the prohibition of torture and of cruel, inhuman or degrading punishments or treatment;
3. the prohibition of slavery and of servitude;
4. the principle of the legality of infractions and of penalties;
5. the right to [a] defense and the right to recourse;
6. the prohibition of imprisonment for debts;
7. the freedom of thought, of conscience and of religion.

Chapter 4: Of the Duties of the Citizen

Article 62

There is no excuse of ignorance of the law.

All persons are required to respect the Constitution and to comply with the laws of the Republic.

Article 63

All Congolese have the sacred right and duty to defend the country and its territorial integrity in the face of an external threat or aggression.

Obligatory military service can be instituted under the conditions determined by the law.

All national, provincial, local and customary authorities have the duty to safeguard the unity of the Republic and the integrity of its territory, under penalty of high treason.

Article 64

All Congolese have the duty to oppose any individual or group of individuals who seize power by force or who exercise it in violation of the provisions of this Constitution.

Any attempt to overthrow the constitutional regime imprescriptibly constitutes an infraction against the Nation and the State. It is punished in accordance with the law.

Article 65

All Congolese are held to loyally fulfill their obligations concerning the State. They have, likewise, the duty to pay their taxes and duties.

Article 66

All Congolese have the duty to respect and to treat their fellow citizens without any discrimination and to maintain relations with them that permit the safeguarding, the promotion, and the strengthening of the national unity, and of reciprocal respect and tolerance.

They have, in addition, the duty to preserve and to reinforce the national solidarity, singularly when it is threatened.

Article 67

All Congolese have the duty to protect the public property, assets and interests and to respect the property of others.

TITLE III: OF THE ORGANIZATION AND OF THE EXERCISE OF POWER

Chapter 1: Of the Institutions of the Republic

Article 68

The institutions of the Republic are as follows:

1. the President of the Republic;
2. the Parliament;
3. the Government;
4. the Courts and Tribunals.

Section 1: Of the Executive Power

Paragraph 1: Of the President of the Republic

Article 69

The President of the Republic is the Head of the State. He represents the Nation and is the symbol of the national unity.

He sees to the respect for the Constitution.

• International law

He assures, by his arbitration, the regular functioning of the public powers and of the institutions as well as the continuity of the State. He is the guarantor of national independence, of the integrity of the territory, of the national sovereignty and of respect for the international treaties and agreements.

Article 70

The President of the Republic is elected by direct universal suffrage for a mandate of five years renewable a single time.

At the end of his mandate, the President of the Republic remains in [his] functions until the effective installation of the newly elected President.

• Head of state selection
• Head of state term length
• Head of state term limits

• Head of state selection

Article 71

[Amended by Law No. 11/002 of 20 January 2011.]

The President of the Republic is elected by the simple majority of the suffrage expressed.

• Eligibility for head of state

Article 72

No one may be a candidate for election as President of the Republic, if they do not meet the following conditions:

1. to possess Congolese nationality of origin;
2. to be at least 30 years of age;
3. to enjoy full civil and political rights;
4. to not be subject to one of the cases of exclusion established by the electoral law.

• Minimum age of head of state

• Scheduling of elections

Article 73

The ballot for the election of the President of the Republic is convoked by the Independent National Electoral Commission, ninety days before the expiration of the mandate of the President in office.

• Oaths to abide by constitution

Article 74

The elected President of the Republic enters into his functions within the ten days which follow the proclamation of the definitive results of the presidential election.

Before he enters into his functions, the President of the Republic takes, before the Constitutional Court, the following oath:

"I, ... , elected President of the Democratic Republic of the Congo, solemnly swear before God and the Nation:

- to observe and defend the Constitution and the laws of the Republic;
- to maintain its independence and integrity of its territory;
- to safeguard the national unity;
- to be guided only by the general interest and the respect of the rights of the human person;

- to devote all my strength to the promotion of the common good and of peace;
- to fulfill loyally, as a faithful servant of the people, the high functions that have been confided in me."

Article 75

In the case of vacancy as a result of death, of resignation or for any other cause of definitive incapacity, the functions of the President of the Republic, with the exception of those specified in Articles 78, 81 and 82 are provisionally exercised by the President of the Senate.

Article 76

The vacancy of the Presidency of the Republic is declared by the Constitutional Court referred to [the matter] by the Government.

The interim President of the Republic sees to the organization of the election of the new President of the Republic under the conditions and within the time periods specified by the Constitution.

In the case of vacancy or when the incapacity is declared definitive by the Constitutional Court, the election of the new President of the Republic takes place, on the convocation of the Independent National Electoral Commission, sixty days at least and ninety days at most, after the occurrence of the vacancy or of the declaration of the definitive character of the incapacity.

In the case of force majeure, this time period may be prolonged to one hundred and twenty days at the most by the Constitutional Court on request by the Independent National Electoral Commission.

The elected President commences a new mandate.

Article 77

The President of the Republic addresses messages to the Nation.

He communicates with the Chambers of Parliament through messages which he reads or has read and which do not give rise to any debate.

He delivers, once a year, before the National Assembly and the Senate, meeting in Congress, a speech on the state of the Nation.

Article 78

The President of the Republic appoints the Prime Minister from within the parliamentary majority after consultation with it. He terminates his functions on presentation by him of the resignation of the Government.

If such a majority does not exist, the President of the Republic confides a preliminary capacitation [mission d'information] to a person with a view to identifying a coalition.

The preliminary capacitation is of thirty days, renewable one time.

The President of the Republic appoints the other members of the Government and terminates their functions on the proposal of the Prime Minister.

• Head of state replacement

• Name/structure of executive(s)
• Head of government selection
• Head of government's role in the legislature

• Minimum age of head of government
• Eligibility for head of government

Article 79

The President of the Republic convenes and presides over the Council of Ministers. In the case of incapacity, he delegates this power to the Prime Minister.

The President of the Republic promulgates the laws under the conditions specified by this Constitution.

He executes by way of ordinance.

The ordinances of the President of the Republic other than those specified in Articles 78, first paragraph, 80, 84 and 143, are countersigned by the Prime Minister.

Article 80

The President of the Republic invests by ordinance the elected Governors and Vice Governors of the Provinces, within a time period of fifteen days in accordance with Article 198.

Article 81

Without prejudice to the other provisions of the Constitution, the President of the Republic appoints, relieves of their functions and, if necessary, revokes [them], on a proposal of the Government deliberating in the Council of Ministers:

1. the ambassadors and extraordinary envoys;
2. the general and superior officers of the armed forces and of the national police, on hearing the Superior Council of Defense;
3. the Major General Chief of Staff, the Major Chiefs of Staff and the commanders of the main units of the armed forces, on hearing the Superior Council of Defense;
4. the high functionaries of the public administration;
5. the responsible [persons] of the public services and establishments;
6. the mandataries of the State in the public enterprises and organs, excepting the commissioners of audit [commissaries aux comptes].

The ordinances of the President of the Republic intervening in these matters are countersigned by the Prime Minister.

Article 82

The President of the Republic appoints, relieves from their functions and, if necessary, revokes [them], by ordinance, the presiding magistrates and the prosecuting [magistrates] on the proposal of the Superior Council of the Judiciary.

The ordinances referred to in the preceding paragraph are countersigned by the Prime Minister.

Article 83

The President of the Republic is the Supreme Commander of the Armed Forces.
He presides over the Superior Council of Defense.

Article 84

The President of the Republic confers the grades in the national orders and [national] decorations, in accordance with the law.

Article 85

When grave circumstances threaten, in an immediate manner, the independence or the integrity of the national territory or when they provoke the disruption of the regular functioning of the institutions, the President of the Republic proclaims a state of urgency or a state of siege after coordination with the Prime Minister and the Presidents of the two Chambers, in accordance with Articles 144 and 145 of this Constitution.

He informs the Nation by a message.

The modalities of application of the state of urgency and the state of siege are established by the law.

Article 86

The President of the Republic declares war by ordinance deliberated in the Council of Ministers after the opinion of the Superior Council of Defense and the authorization of the National Assembly and of the Senate, in accordance with Article 143 of this Constitution.

Article 87

The President of the Republic exercises the right of pardon.

He may remit, commute or reduce sentences.

Article 88

The President of the Republic accredits the ambassadors and extraordinary envoys to foreign States and to international organizations.

The foreign ambassadors and extraordinary envoys are accredited to him.

Article 89

The emoluments and the civil list of the President of the Republic are determined by the Law of Finance.

Paragraph 2: Of the Government

Article 90

The Government is composed of the Prime Minister, of Ministers, of Deputy Ministers and, the case arising, of Vice Prime Ministers, of Ministers of State and of Delegated Ministers.

• Head of state powers

• Emergency provisions

• Designation of commander in chief
• Power to declare/approve war

• Power to pardon

• Head of state powers
• International organizations

• Establishment of cabinet/ministers
• Name/structure of executive(s)

• Deputy executive

It is directed by the Prime Minister, the Head of the Government. In the case of incapacity, his interim is assured by the member of the Government who has seniority.

The composition of the Government takes into account national representation.

Before entering into his functions, the Prime Minister presents to the National Assembly the Program of the Government.

Once this program has been approved by the absolute majority of the members composing the National Assembly, it invests the Government.

Article 91

The Government defines, in concert with the President of the Republic, the policy of the Nation and assumes responsibility for it.

The Government conducts the policy of the Nation.

Defense, security and foreign affairs are domains of collaboration between the President of the Republic and the Government.

The Government directs the public administration, the Armed Forces, the National Police and the services of security.

The Government is responsible before the National Assembly within the conditions provided for in Articles 90, 100, 146 and 147.

An ordinance deliberated in the Council of Ministers determines the organization, the functioning of the Government, and the modalities of collaboration between the President of the Republic and the Government as well as between the members of the Government.

Article 92

The Prime Minister assures the execution of the laws and exercises the regulatory power under reserve of the prerogatives assigned to the President of the Republic by this Constitution.

He executes [statuer] by way of decree.

He appoints, by decree deliberated in the Council of Ministers, to the civil and military offices other than those conferred by the President of the Republic.

The acts of the Prime Minister are countersigned, as the case requires, by the Minister charged with their execution.

The Prime Minister may delegate certain of his powers to the Ministers.

Article 93

The Minister is responsible for his department. He implements the governmental program in his ministry, under the direction and the coordination of the Prime Minister.

He executes by way of order.

Article 94

The Vice Ministers exercise, under the authority of the Ministers to whom they are adjunct, the attributions which are conferred on them by the ordinance concerning the organization and functioning of the Government. They assume the interim of their Ministers in case of absence or of incapacity.

Article 95

The emoluments of the members of the Government are specified by the Law of Finance.

The Prime Minister benefits, additionally, from an endowment.

Paragraph 3: Of Provisions Common to the President of the Republic and to the Government

Article 96

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

The mandate of the President of the Republic is also incompatible with any responsibility within a political party.

Article 97

The functions of a member of Government are incompatible with the exercise of any other elective mandate, any public, civil or military employment and any professional activity, with the exception of agricultural, artisanal, cultural, educational and research activities.

They are equally incompatible with any responsibility within a political party.

Article 98

During their functions, the President of the Republic and the members of the Government may not, by themselves or through an intermediate person, purchase, or acquire in any other fashion, or lease an asset which belongs to the domain of the State, of the Provinces or of the decentralized entities.

They may not take part, directly or indirectly, in public contracts for the benefit of the administrations or of institutions in which the Central Power, the Provinces and the decentralized administrative entities have interests.

Article 99

Before their entry into [their] functions and on the expiration of them, the President of the Republic and the members of Government are held to submit, before the Constitutional Court, a written declaration of their family patrimony, enumerating their movable assets, and comprising assets, partnership shares, obligations, other assets, bank accounts, their real assets, and comprising undeveloped lands, forests, plantations and agricultural lands, mines and other real property, with indication of the pertinent titles.

The family patrimony includes the assets of the spouse following the matrimonial regime, of the minors and of the children, even of majority, the couple is responsible for.

The Constitutional Court communicates this declaration to the fiscal administration.

In default of this declaration, allowing thirty days, the concerned person is deemed resigned.

In the thirty days which follow the end of [his] functions, in default of this declaration, in case of fraudulent declaration or of suspicion of enrichment without cause, the Constitutional Court or the Court of Cassation is referred to [the matter], according to the case.

Section 2: Of the Legislative Power

Article 100

The Legislative power is exercised by a Parliament consisting of two Chambers: the National Assembly and the Senate.

Without prejudice to the other provisions of this Constitution, the Parliament votes the laws. It controls the Government, the public companies as well as the public establishments and the [public] services.

Each of the Chambers enjoys administrative and financial autonomy and controls its own allocation.

Paragraph 1: Of the National Assembly

Article 101

The members of the National Assembly have the title of National Deputy. They are elected by universal, direct and secret suffrage.

The candidates to the legislative elections are presented by the political parties or by the political groups. They may also present themselves as independents.

Each National Deputy is elected with two substitutes.

The National Deputy represents the Nation.

Any imperative mandate is null.

The number of National Deputies as well as the conditions of their election and eligibility are determined by the electoral law.

Article 102

No one may be a candidate to the legislative elections if he does not fulfill the conditions as follows:

1. to be Congolese;
2. to be 25 years of age at least;
3. to enjoy full civil and political rights;
4. to not be subject to one of the causes of exclusion specified by the electoral law.

Article 103

The National Deputy is elected for a mandate of five years. He is re-eligible.

• Structure of legislative chamber(s)

• First chamber selection

• Secret ballot
• Claim of universal suffrage

• Eligibility for head of government
• Eligibility for first chamber

• Minimum age of head of government
• Minimum age for first chamber

• Term length for first chamber

The mandate of the National Deputy commences with the validation of the powers by the National Assembly and expires with the installation of the new Assembly.

Paragraph 2: Of the Senate

Article 104

The members of the Senate have the title of Senator.

The Senator represents his Province, but his mandate is national.

Any imperative mandate is null.

The candidates for Senator are presented by the political parties or by the political groups. They may also present themselves as independents.

They are elected at the second degree by the Provincial Assemblies.

Each Senator is elected together with two substitutes.

The former elected Presidents of the Republic are[,] of right[,] Senators for life.

The number of the Senators as well as the conditions of their election and eligibility are determined by the electoral law.

Article 105

The Senator is elected for a mandate of five years. He is re-eligible.

The mandate of the Senator commences with the validation of the powers by the Senate and expires at the installation of the new Senate.

Article 106

No one may be a candidate [to] membership in the Senate if they do not fulfill the conditions as follows:

1. to be Congolese;
2. to be 30 years of age at least;
3. to enjoy full civil and political rights;
4. to not be subject to one of the causes of exclusion specified by the electoral law.

Paragraph 3: Of Immunities and of Incompatibilities

Article 107

No parliamentarian may be prosecuted, searched, arrested, detained or judged as a result of opinions or votes emitted by him in the exercise of his functions.

A parliamentarian may, during the sessions, be prosecuted or arrested only with the authorization of the National Assembly or of the Senate, as the case may be, except in cases of flagrante delicto.

Out of session, a parliamentarian may only be arrested with the authorization of the Bureau of the National Assembly or of the Bureau of the Senate, except in cases of flagrante delicto, of authorized prosecution or of definitive sentence.

The detention or prosecution of a parliamentarian is suspended if the Chamber of which he is a member requires it. The suspension may not exceed the duration of the session in course.

Article 108

The mandate of National Deputy is incompatible with the mandate of Senator and vice versa.

The mandate of Deputy or of Senator is incompatible with the following functions or mandates:

1. member of the Government;
2. member of a institution in support of democracy;
3. member of the Armed Forces, of the National Police and of the services of security;
4. magistrate;
5. career officer of the public services of the State;
6. territorial political-administrative group [cadre], with the exception of the chiefs of the collectivité-chefferie [collectivity-headmanships] and groups;
7. active public mandate;
8. member of the cabinets of the President of the Republic, of the Prime Minister, of the President of the National Assembly, of the President of the Senate, of the members of the Government, and generally of a political or administrative authority of the State, employed in a public enterprise or a mixed-economy company;
9. any other elective mandate.

The mandate of National Deputy or of Senator is incompatible with the exercise of remunerated functions conferred by a foreign State or an international organ.

Paragraph 4: Of the Rights of National Deputies and of Senators

Article 109

The National Deputies and Senators have the right to circulate without restriction or hindrance within the national territory and to leave it.

They have the right to an equitable indemnity which assures their independence and their dignity. This is provided for in the Law of Finance.

They have the right to a final indemnity equal to six months of their emoluments.

The modalities of application of the preceding paragraph as well as the other rights of the Parliamentarians are established by the Internal Regulations of each of the Chambers.

Paragraph 5: Of the End and of the Suspension of the Mandate of National Deputy or of Senator

[Amended by Law No. 11/002 of 20 January 2011.]

Article 110

[Amended by Law No. 11/002 of 20 January 2011.]

The mandate of Deputy or of Senator is ended by:

1. the expiration of the legislature;
2. death;
3. resignation;
4. definitive impediment;
5. permanent incapacity;
6. non-justified and non-authorized absence from more than a quarter of the sittings of a session;
7. exclusion specified by the electoral law;
8. irrevocable sentence to a penalty of penal servitude for an intentional infraction.
9. acceptance of a function incompatible with the mandate of Deputy or of Senator;

However, when a National Deputy or a Senator is appointed to a political function incompatible with the exercise of his parliamentary mandate, he is suspended.

He reclaims of plain right his parliamentary mandate after the cessation of that incompatible political function.

Any cause of ineligibility, at the date of the elections, declared subsequently by the competent judicial authority, results in the loss of the mandate of National Deputy or of Senator.

In the cases enumerated above, the National Deputy or the Senator is replaced by the first substitute, or in default [of this], by the second substitute. In the case of deficiency of substitute[s], a partial election is organized in the electoral circumscription concerned.

The National Deputy, the Senator or the substitute who deliberately leaves his political party during the legislature is deemed to have renounced his parliamentary mandate or that [of] substitution obtained within the order of that political party.

Paragraph 6: Of the Functioning of the National Assembly and of the Senate

Article 111

The National Assembly and the Senate are each directed by a Bureau of seven members consisting of:

1. a president;
2. a first vice president;
3. a second vice president;
4. a rapporteur [secretary]
5. an adjunct rapporteur;
6. a questeur [treasurer]
7. an adjunct questeur.

The Presidents of the two Chambers must be Congolese of origin. The members of the Bureau are elected under the conditions established by the Internal Regulations of their respective Chamber.

Article 112

Each Chamber of Parliament adopts its Internal Regulations.

The internal regulations determine, notably:

1. the duration and the rules of functioning of the Bureau, the powers and the prerogatives of its President as well as of the other members of the Bureau;
2. the number, the mode of designation, the composition, the role and the competence of the permanent commissions as well as the creation and the functioning of special and temporary commissions;
3. the organization of the administrative services directed by a Secretary General of the Public Administration of each Chamber;
4. the disciplinary regime of the Deputies and of the Senators;
5. the different modes of the ballot, with the exclusion of those expressly provided for in this Constitution

Before being implemented, the Internal Regulations are obligatorily transmitted by the President of the concerned Chamber to the Constitutional Court which decides on their conformity with the Constitution within a period of fifteen days. This period elapsing, the internal regulations are deemed to conform.

The provisions declared non-conforming may not be implemented.

Article 113

In addition to the Permanent and Special Commissions, the two Chambers may constitute one or several joint Commissions [with] parity [Commissions mixtes paritaires] to reconcile their points of view when they are in disagreement on a subject of a question on which they must adopt the same decision in identical terms.

If the disagreement persists, the National Assembly decides definitively.

Article 114

Each Chamber of Parliament meets of right in extraordinary session on the fifteenth day following the proclamation of the results of the legislative elections by the Independent National Electoral Commission to accomplish:

1. the installation of the provisional Bureau directed by the senior member assisted by two younger members;
2. the validation of the powers;
3. the election and installation of the definitive Bureau;
4. the drafting and adoption of the Internal Regulations.

The opening sitting is presided over by the Secretary General of the Administration of each of the two Chambers.

During this sitting, the two Chambers meet to draft and adopt the Internal Regulations of the Congress.

The extraordinary session ends with the exhaustion of the agenda.

Article 115

The National Assembly and the Senate hold of right, each year, two ordinary sessions:

1. the first opens on 15 March and closes on 15 June;
2. the second opens on 15 September and closes on 15 December.

If the 15th of the month of March or of the month of September is a holiday or occurs on a Sunday, the opening of the session takes place on the first working day which follows.

The duration of each ordinary session may not exceed three months.

Article 116

Each Chamber of Parliament can be convoked in extraordinary session by its President on a specific agenda, either at the demand of its Bureau, or of half of its members, or of the President of the Republic, or of the Government.

• Legislative committees
• Joint meetings of legislative chambers

• Length of legislative sessions

• Extraordinary legislative sessions

Cloture intervenes after the Chamber has exhausted the agenda for which it had been convoked and, at the latest, thirty days counting from the beginning of the session.

Article 117

The inscription, by priority, in the agenda of each of the Chambers, of a Bill of law, a Proposal of law or of a declaration of general policy, is of right if the Government, after deliberation in the Council of Ministers, demands it.

Article 118

The National Assembly and the Senate sit validly only with the absolute majority of the members which compose them.

The sittings of the National Assembly and of the Senate are public, unless if a closed [sitting] is announced.

The analytic summary of the debates as well as the documents of the National Assembly and of the Senate are published in the parliamentary annals.

Article 119

The two Chambers meet jointly in Congress for the following cases:

1. the procedure of constitutional revision, in accordance with Articles 218 to 220 of this Constitution;
2. the authorization of the proclamation of the state of urgency or of the state of siege [or] of the declaration of war, in accordance with Articles 85 and 86 of this Constitution;
3. the hearing of the speech of the President of the Republic on the state of the Nation, in accordance with Article 77 of this Constitution;
4. the designation of three members of the Constitutional Court, in accordance with the provisions of Article 158 of this Constitution.

Article 120

When the two Chambers sit in Congress, the Bureau is that of the National Assembly and the presidency is, on a rotating basis, assured by the President of the National Assembly and the President of the Senate.

The Congress adopts its Internal Regulations.

Before its implementation, the Internal Regulations are communicated by the President of Congress to the Constitutional Court which decides on the conformity of these regulations to this Constitution within fifteen days.

This period elapsing, the Internal Regulations are deemed conforming.

The provisions declared non-conforming may not be implemented.

Article 121

Each of the Chambers or the Congress only sit validly with the absolute majority of its members assembled. Under reserve of the other provisions of the Constitution, every resolution and every decision is taken in accordance with the Internal Regulations of each Chamber or of the Congress.

The votes are cast either by roll call and audible voice [haute voix], or by raising the hand, or by sitting and standing, either by secret paper ballot, or by electronic procedure. On the whole text of a law, the vote takes place by roll call and audible voice. The votes may equally be cast by a technical procedure providing more guarantees.

Under reserve of the provisions of the Constitution, each of the Chambers or the Congress may decide [on] secret voting for the adoption of a specific resolution.

However, in the case of deliberations concerning persons, the vote is effected by secret ballot.

Section 3: Of the Relations Between the Executive Power and the Legislative Power

Article 122

Without prejudice to the other provisions of this Constitution, the law establishes the rules concerning:

1. the civic rights and the fundamental guarantees granted to the citizens for the exercise of the public freedoms;
2. the electoral regime;
3. public finances;
4. the requirements imposed by the national defense on citizens[,] on their person and their assets;
5. nationality, the status and capacity of persons, the matrimonial regimes, inheritance and donations;
6. the determination of the infractions and the penalties which are applicable to them, the criminal procedure, the organization and the functioning of the judicial power, the creation of new orders of jurisdiction, the status of the magistrates, the juridical regime of the Superior Council of the Magistrature;
7. the organization of the Bar, judicial assistance and the representation in justice;
8. commerce, the regime of property rights, and of civil and commercial obligations;
9. amnesty and extradition;

10. the basis, rate and the modalities of collection of taxes of any nature, the regime of issuance of currency;
11. the loans and financial obligations of the State;
12. the status of the career officers of the public services of the State, of the personnel in higher education, university [education] and of scientific research;
13. the Armed Forces, the Police and the services of security;
14. the right to work and of social security;
15. the general organization of defense and of the National Police, the mode of recruitment of the members of the Armed Forces and of the National Police, the advancement, the rights and obligations of the military and of the personnel of the police.

Article 123

Without prejudice to the other provisions of this Constitution, the law determines the fundamental principles concerning:

1. the free administration of the Provinces and the decentralized territorial entities, of their competences and of their resources;
2. the creation of public enterprises, establishments and organs;
3. the regime of land, mining, forestry and real property;
4. mutual insurance systems and savings;
5. education and health;
6. the prison regime;
7. political and syndical pluralism;
8. the right to strike;
9. the organization of the media;
10. scientific and technological research;
11. the cooperative;
12. culture and the arts;

13. sports and leisure;
14. agriculture, animal husbandry, fishing and aquaculture;
15. the protection of the environment and tourism;
16. the protection of vulnerable groups.

Article 124

The laws to which the Constitution confers the character of organic law, are adopted and modified by the absolute majority of members composing each Chamber under the following conditions:

1. the legislative Proposal of law can only be submitted to the deliberation and the vote of the first Chamber referred to [the matter] after the expiration of a period of fifteen days after its deposit with the Government;
2. the procedure of Article 132 is applicable. However, in default of accord between the two Chambers, the text may only be adopted by the National Assembly in the final reading with the absolute majority of its members;
3. the organic laws may only be promulgated after declaration, by the Constitutional Court obligatorily referred to [the matter] by the President of the Republic, of their conformity with the Constitution within a time period of fifteen days..

Article 125

When a Bill or a Proposal of law has been declared urgent by the Government, it is examined by priority in each Chamber by the competent commission following the procedure specified by the Internal Regulations of each of them.

The normal procedure is applied to the proposals or to the Bills of law involving amendment to the Constitution or modifying the organic laws as well as to the Bills of enabling law [loi d'habilitation] established in Article 129.

Article 126

[Amended by Law No. 11/002 of 20 January 2011.]

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

The National Assembly and the Senate adopt the Bills of the Laws of Finance under the conditions specified by the organic law provided for in Article 124 of the Constitution.

The Bill of the Annual Law of Finance, which includes notably the budget, is deposited by the Government with the Bureau of the National Assembly, at the latest, on the fifteenth of September of each year.

The creations and transformations of public employment may not operate outside of the provisions of the Law of Finance.

If the Bill of the Law of Finance, deposited in the constitutional time period, is not adopted before the opening of the new fiscal year [exercice], it is brought into force by the President of the Republic, on proposal of the Government deliberating in the Council of Ministers, taking into account the amendments adopted by each of the two Chambers.

If the Bill of the Law of Finance has not been deposited in a timely fashion to be promulgated before the start of the fiscal year, the Government demands of the National Assembly and of the Senate the opening of provisional credits.

If, fifteen days before the end of the budgetary session, the Government has not deposited its Bill of the budget, it is deemed [to have] resigned.

In the case where the National Assembly and the Senate do not decide within fifteen days on the opening of provisional credits, the provisions of the Bill providing for these credits are brought into force by the President of the Republic on proposal of the Government deliberating in the Council of Ministers.

If, taking into account the procedure provided for above, the Annual Law of Finance could not be brought into force on the first day of the month of February of the budgetary year, the President of the Republic, on the proposal of the Government deliberating in the Council of Ministers, orders the execution of the Bill of the Law of Finance, taking into account the amendments voted by each of the two Chambers.

If the Bill of the Law of Finance adopted in a timely fashion by the Parliament and transmitted for promulgation before the opening of the new budgetary year is made the object of a remand [renvoi] to Parliament by the President of the Republic, the Government demands of the National Assembly and of the Senate the opening of provisional credits.

Article 127

Amendments to the Bill of the Law of Finance are not receivable when their adoption has as a consequence either a diminution of receipts or an increase of expenses, unless they are accompanied by compensatory proposals.

Article 128

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

The texts having the character of law intervening in these matters may be modified by decree if the Constitutional Court, on the demand of the Government, has declared that they have a regulatory character in accordance with the preceding paragraph.

Article 129

The Government can, for the urgent execution of its program of action, demand of the National Assembly or of the Senate the authorization to take, by ordinance-law, for a limited time period and on specific matters, measures which are normally within the domain of the law.

These ordinance-laws are deliberated in the Council of Ministers. They are brought into force on publication and become lapsed if the Bill of the law of ratification is not deposited with the Parliament, at the latest, on the deadline specified by the enabling law.

At the end of the period referred to in the first paragraph of this article, if the Parliament does not ratify these ordinance-laws, they cease[,] of right[,] to produce their effects.

The ordinance-laws deliberated in the Council of Ministers and ratified may only be modified in their provisions by the law.

The ordinance-laws cease[,] of right[,] to produce their effects in [the] case of the rejection of the Bill of the law of ratification.

Article 130

The initiative of law belongs concurrently to the Government, to each Deputy and to each Senator.

The Bills of law adopted by the Government in the Council of Ministers are deposited with the Bureau of one of the Chambers. However, as it concerns of the Law of Finance, the Bill is imperatively deposited, within the time period provided for in Article 126, with the Bureau of the National Assembly.

The Proposals of law, before deliberation and adoption, are notified for information to the Government which addresses, within fifteen days following their transmission, any observations to the Bureau of one or the other of the Chambers. Past this time period, the Proposals of law are brought into deliberation.

Article 131

The members of the Government have access to the work of the National Assembly and of the Senate as well as to that of their commissions.

If it is required of them, the members of the Government have the obligation to be present at the sittings of the National Assembly and those of the Senate, to take the floor and to provide the parliamentarians any explanations demanded of them on their activities.

Article 132

The discussion of the Bills of law proceeds, before the first Chamber referred to [the matter], on the text deposited by the Government. A Chamber referred to a text voted by the other Chamber deliberates only on the text transmitted to it.

Article 133

The members of the Government have the right to propose amendments to the texts under discussion but do not participate in the vote.

Article 134

The Proposals of law and the amendments formulated by the members of the National Assembly or of the Senate are not receivable when their adoption would have as a consequence either in a reduction of public resources, or the creation or increase of a public obligation, unless they have been accompanied by proposals concerning the corresponding receipts or economies.

Article 135

Every Bill and every Proposal of law is examined successively by the two Chambers with the view to the adoption of an identical text.

When, as a result of disaccord between the two Chambers, a Bill or a Proposal of law could not be adopted after one reading by each Chamber, a joint Commission [with] parity, is charged to propose a text on the provisions still under discussion, is put in

place by the two Bureaus.

The text drafted by the joint Commission [with] parity is submitted for adoption to the two Chambers.

If the joint Commission [with] parity does not succeed in adopting a single text or if this text is not adopted under the conditions provided for in the preceding paragraph, the National Assembly decides definitively. In this case, the National Assembly may reconsider either the text drafted by the joint Commission [with] parity, or the last text it voted itself, as modified, as the case may be, by one or several of the amendments adopted by the Senate.

Article 136

Within six days of its adoption, the law is transmitted to the President of the Republic for its promulgation. The Prime Minister receives a certified copy of it.

Article 137

Within a time period of fifteen days from the transmission, the President of the Republic can demand of the National Assembly or of the Senate[,] a new deliberation of the law or of certain of its articles. This new deliberation cannot be refused.

The text submitted to second deliberation is adopted by the National Assembly and the Senate either in the initial form, or after modification[,] by the absolute majority of the members which compose them.

Article 138

Without prejudice to the other provisions of this Constitution, the means of information and of control of the National Assembly and of the Senate, concerning the Government, the public enterprises, [and] the public establishments and services are:

1. the oral or written question with or without debate[,] not followed by a vote;
2. the question on current affairs;
3. the interpellation;
4. the commission of inquiry;
5. the hearing by the commissions.

These means of control are exercised under the conditions determined by the Internal Regulations of each of the Chambers and give rise, as the case may be, to the motion of no confidence or of censure, in accordance with Articles 146 and 147 of this Constitution.

Article 139

The Constitutional Court may be referred to [a matter] by recourse aimed at having a promulgated law declared not conforming to the Constitution by:

1. the President of the Republic within the fifteen days which follow the transmission made to him of the law definitively adopted;
2. the Prime Minister within the fifteen days which follow the transmission made to him of the law definitively adopted;
3. The President of the National Assembly or the President of the Senate within the fifteen days which follow its definitive adoption;
4. a number of Deputies or of Senators at least equal to a tenth of the members of each of the Chambers, within the fifteen days which follow its definitive adoption.

The law can only be promulgated if it has been declared conforming to the Constitution by the Constitutional Court, which decides within fifteen days of the referral [of the matter]. However, at the demand of the Government, if there is urgency, this time period is reduced to eight days. Past this time period, the law is deemed conforming to the Constitution.

Article 140

The President of the Republic promulgates the law within fifteen days of its transmission after the expiration of the time periods referred to in Articles 136 and 137 of the Constitution.

In default of promulgation of the law by the President of the Republic within the constitutional time periods, the promulgation is of right.

Article 141

The laws are stamped with the Seal of the State and are published in the Journal Officiel [Official Gazette]

Article 142

The law enters into force thirty days after its publication in the Journal Officiel unless it provides otherwise.

In all cases, the Government assures diffusion in French and in each of the four national languages within a time period of sixty days from the date of promulgation.

Article 143

In accordance with the provisions of Article 86 of the Constitution, the President of the Republic declares war on the decision of the Council of Ministers after the opinion of the Superior Council of Defense and the authorization of the two Chambers.

He informs the Nation by a message.

The rights and duties of citizens, during war or in case of invasion or attack of the national territory by foreign forces, are made the subject of a law.

Article 144

In application of the provisions of Article 85 of this Constitution, the state of siege, like the state of urgency, is declared by the President of the Republic.

The National Assembly and the Senate then convene of right. If they are not in session, an extraordinary session is convoked to this effect in accordance with Article 116 of this Constitution.

The closing of the ordinary or extraordinary sessions is[,] of right[,] delayed to permit, as the case may be, the application of the provisions of the preceding paragraph.

The state of urgency or the state of siege may be proclaimed for all or part of the territory of the Republic for a time period of thirty days.

The ordinance proclaiming the state of urgency or the state of siege ceases[,] of right[,] to produce its effects after the expiration of the time period specified in the [fourth] paragraph of this article, unless the National Assembly and the Senate, referred to [the matter] by the President of the Republic on decision of the Council of Ministers, have authorized its extension for successive periods of fifteen days.

The National Assembly and the Senate can, by way of a law, end at any moment the state of urgency or the state of siege.

Article 145

In case of a state of urgency or of state of siege, the President of the Republic takes, by ordinances deliberated in the Council of Ministers, the measures necessary to respond to the situation.

These ordinances are, on their signature, submitted to the Constitutional Court which, ceasing other matters, declares if they derogate or not from this Constitution.

Article 146

The Prime Minister can, after deliberation in the Council of Ministers, engage before the National Assembly the responsibility of the Government, on a declaration of general policy or on the vote on a text. The National Assembly may challenge the responsibility of the Government or of a member of the Government by a vote on a motion of censure or no confidence. The motion of censure against the Government is receivable only if it is signed by a quarter of the members of the National Assembly. The motion of no confidence against a member of the Government is receivable only if it is signed by a tenth of the members of the National Assembly.

The debate and the vote can only take place forty-eight hours after the deposit of the motion. Only the votes favorable to the motion of censure or of no confidence are counted, which can only be adopted by an absolute majority of the members composing the National Assembly. If the motion of censure or of no confidence is rejected, the signatories cannot propose a new one in the course of the same session.

The program, the declaration of the general policy or the text referred to in the first paragraph is considered adopted unless if a motion of censure is adopted under the conditions specified in paragraphs 2 and 3 of this article.

The Prime Minister has the faculty to demand the Senate for the approval of a declaration of general policy.

Article 147

When the National Assembly adopts a motion of censure, the Government is deemed to have resigned. In this case, the Prime Minister remits the resignation of the Government to the President of the Republic within twenty-four hours.

When a motion of no confidence against a member of the Government is adopted, that [member] is deemed to have resigned.

Article 148

In the case of persistent crisis between the Government and the National Assembly, the President of the Republic can, after consultation of the Prime Minister and of the Presidents of the National Assembly and of the Senate, pronounce the dissolution of the National Assembly.

No dissolution may take place in the year which follows the elections, or during the periods of the state of urgency or of siege or of war, or when the Republic is directed by an interim President.

Following the dissolution of the National Assembly, the Independent National Electoral Commission convokes the electors, with a view to the election, within a time period of sixty days which follow the date of publication of the ordinance of dissolution, of a new National Assembly.

Section 4: Of the Judicial Power

Paragraph 1: Of General Provisions

Article 149

[Amended by Law No. 11/002 of 20 January 2011.]

The judicial power is independent of the Legislative Power and of the Executive Power.

It is devolved to the Courts and Tribunals which are: the Constitutional Court, the Court of Cassation, the Council of State, the High Military Court, as well as the civil and military courts and tribunals.

Justice is rendered on the whole of the national territory in the name of the people.

The orders and the judgments as well as the ordinances of the Courts and Tribunals are executed in the name of the President of the Republic.

Extraordinary tribunals or [tribunals] of exception may never be created under whatever denomination that may be.

The law may create specialized jurisdictions.

The judicial power has a budget drafted by the Superior Council of the Magistrature and transmitted to the Government to be included in the general budget of the State. The President of the Court of Cassation is its director. He is assisted by the Permanent Secretariat of the Superior Council of the Magistrature.

Article 150

The judicial power is the guarantor of the individual freedoms and of the fundamental rights of the citizens.

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

An organic law determines the status of the magistrates.

The presiding magistrates may not be removed. They can only be transferred following a new appointment, or at their own demand or through a substantiated rotation decided by the Superior Council of the Magistrature.

Article 151

The executive power may neither give orders to a judge in the exercise of his jurisdiction, nor decide on disputes, nor obstruct the course of justice, nor oppose the execution of a decision of justice.

The legislative power may not decide on jurisdictional disputes, or modify a decision of justice, nor oppose its execution.

Any law of which the subject is manifestly to provide a solution to a juridical process in [its] course is void and of no effect.

Article 152

The Superior Council of the Magistrature is the organ of management of the judicial power.

The Superior Council of the Magistrature is composed of the:

1. President of the Constitutional Court;
2. Attorney [Procureur] General before the Constitutional Court;
3. First President of the Court of Cassation;
4. Attorney General before the Court of Cassation;
5. First President of the Council of State;
6. Attorney General before the Council of State;
7. First President of the High Military Court;
8. Auditor General before the High Military Court;
9. First Presidents of the Courts of Appeal;
10. Attorneys General before the Courts of Appeal;
11. First Presidents of the Administrative Courts of Appeal;
12. Attorneys General before the Administrative Courts of Appeal;
13. First Presidents of Military Courts;

14. Superior Military Auditors;
15. two presiding magistrates by jurisdiction [ressort] of Court[s] of Appeal, elected by all of the magistrates of the jurisdiction for a mandate of three years;
16. two prosecuting magistrates by jurisdiction of Court[s] of Appeal, elected by all of the magistrates of the jurisdiction for a mandate of three years;
17. a presiding magistrate by jurisdiction of Military Court[s];
18. a prosecuting magistrate by jurisdiction of Military Court[s].

It drafts the proposals of appointment, of promotion and of dismissal of the magistrates.

It exercises the disciplinary power over the magistrates.

It gives its opinion on matters of recourse [for] pardon.

An organic law determines the organization and the functioning of the Superior Council of the Magistrature.

Paragraph 2: Of the Jurisdictions of the Judicial Order

Article 153

An order of judicial jurisdictions is instituted, composed of the civil and military courts and tribunals placed under the control of the Court of Cassation.

Without prejudice to the other competences which are assigned to it by this Constitution or by the laws of the Republic, the Court of Cassation takes cognizance of the appeals in cassation brought against the orders and judgments rendered in last resort by the civil and military courts and tribunals.

Under the conditions specified by the Constitution and the laws of the Republic, the Court of Cassation decides in the first and last resort on the infractions committed by:

1. the members of the National Assembly and the Senate;
2. the members of the Government other than the Prime Minister;
3. the members of the Constitutional Court;
4. the magistrates of the Court of Cassation and the members of the prosecutorial office before that Court;
5. the members of the Council of State and the members of the prosecutorial office before that Council;
6. the members of the Court of Accounts and the members of the prosecutorial office before that Office;

- Administrative court selection
- Supreme/ordinary court judge removal
- Ordinary court selection

- Structure of the courts
- Supreme court powers

- Right to appeal judicial decisions

7. the first Presidents of the Courts of Appeal as well as the Attorneys General at these courts;
8. the first Presidents of the Administrative Courts of Appeal and the Attorneys General at these courts;
9. the Governors, and Vice Governors of the Province and the Provincial Ministers.
10. the Presidents of the Provincial Assemblies.

The civil and military Courts and Tribunals apply the duly ratified international treaties, the laws, [and] the regulatory acts, provided that they are in conformity with the laws as well as customary [law] unless the latter is contrary to the public order or to morality.

The organization, the functioning and the competences of the jurisdictions of the judicial order are determined by an organic law.

Paragraph 3: Of the Jurisdictions of the Administrative Order

Article 154

An order of administrative jurisdictions is instituted composed of the Council of State and of the Administrative Courts and Tribunals.

Article 155

Without prejudice to the other competences which are assigned to it by the Constitution or the law, the Council of State takes cognizance of in first and last resort, the recourses for violation of the law, brought against the acts, regulations and decisions of the central administrative authorities.

It takes cognizance [.] on appeal[,]of the recourses against the decisions of the Administrative Courts of Appeal.

It takes cognizance, in the cases where no other competent jurisdictions exist, of the claims for indemnity concerning the reparation of an exceptional damage, material or moral, resulting from a measure taken or ordered by the authorities of the Republic. It decides, in equity, taking into account all circumstances of public or private interest.

The organization, the competence and the functioning of the jurisdictions of the administrative order are established by an organic law.

Paragraph 4: Of the Military Jurisdictions

Article 156

The military jurisdictions take cognizance of the infractions committed by the members of the Armed Forces and by the National Police.

In times of war or when the state of siege or of urgency is proclaimed, the President of the Republic, by a decision deliberated in the Council of Ministers, can suspend, on all or part of the Republic and for a time period and for infractions that are determined, the repressive action of the Courts and Tribunals of common law in favor of those of the military jurisdictions. However, the right to appeal cannot be suspended.

An organic law establishes the rules of competence, of organization and of functioning of the military jurisdictions.

Paragraph 5: Of the Constitutional Court

Article 157

A Constitutional Court is instituted.

Article 158

The Constitutional Court consists of nine members appointed by the President of the Republic; three on his own initiative, three designated by the Parliament meeting in Congress and three designated by the Superior Council of the Magistrature.

Two-thirds of the members of the Constitutional Court must be jurists from among the magistrature, of the Bar or from university education.

The mandate of the members of the Constitutional Court is of nine years, nonrenewable.

The Constitutional Court is renewed by thirds every three years. However, on each renewal, one member per group will be determined by the drawing of lots.

The President of the Constitutional Court is elected by his peers for a time period of three years, renewable one time. He is invested by ordinance of the President of the Republic.

Article 159

No one may be appointed as a member of the Constitutional Court:

- a. if he is not Congolese;
- b. if he cannot demonstrate [a] proven experience of fifteen years in the judicial or political domain.

Article 160

The Constitutional Court is charged with the control of the constitutionality of the laws and of the acts having the force of law.

The organic laws, before their promulgation, and the Internal Regulations of the parliamentary Chambers and of the Congress, of the Independent National Electoral Commission as well as of the Superior Council for Audiovisual and Communication, before their entry into application, must be submitted to the Constitutional Court which rules on their conformity with the Constitution.

For the same end of examining [the] constitutionality, the laws may be referred to the Constitutional Court, before their promulgation, by the President of the Republic, the Prime Minister, the President of the National Assembly, the President

• Constitutional court selection

• Constitutional court term limits
• Constitutional court term length

• Constitutional court term limits
• Constitutional court term length

• Eligibility for const court judges

• Constitutional interpretation
• Constitutionality of legislation

of the Senate or a tenth of the Deputies or of the Senators.

The Constitutional Court decides within the time period of thirty days. However, at the demand of the Government, if there is urgency, this delay is reduced to eight days.

Article 161

The Constitutional Court takes cognizance of the recourses for interpretation of the Constitution on being referred to [the matter] by the President of the Republic, by the Government, by the President of the Senate, by the President of the National Assembly, by one-tenth of the members of each of the parliamentary Chambers, by the provincial Governors and by the Presidents of the Provincial Assemblies.

It resolves disputes concerning the presidential and legislative elections as well [concerning the] referendum.

It takes cognizance of the conflicts of competence between the Executive Power and the Legislative Power as well as between the State and the Provinces.

It takes cognizance of the recourses against the orders rendered by the Court of Cassation and the Council of State, only insofar as it decides on the attribution of the litigation to the jurisdiction of the judicial order or [to the] administrative [order]. This recourse is only receivable if a denial of jurisdiction has been raised by or before the Court of Cassation or the Council of State.

The modalities and the effects of the recourses referred to in the preceding paragraphs are determined by the law.

Article 162

The Constitutional Court is the judge of the exceptions of unconstitutionality raised before or by a jurisdiction.

Any person may refer the Constitution Court to [a matter concerning] the unconstitutionality of any legislative or regulatory act.

In addition, he may refer the Constitutional Court to [a matter], by the procedure of the exception of unconstitutionality invoked in a matter concerning him before a jurisdiction.

That [jurisdiction] stays [its] decision and refers the Constitutional Court to [it], all [other] matters ceasing.

Article 163

The Constitutional Court is the criminal jurisdiction for the Head of the State and for the Prime Minister in the cases and conditions provided by the Constitution.

Article 164

The Constitutional Court is the criminal judge for the President of the Republic and the Prime Minister for the political infractions of high treason, of contempt of Parliament, infringements of honor or of probity as well as crimes of privilege and for the other infractions of common law committed in the exercise or on the occasion of the exercise of their functions. It is equally competent to judge their co-authors and accomplices.

• Constitutional court powers

• Constitutionality of legislation

• Constitutional court powers

• Head of government removal
• Head of state removal

Article 165

Without prejudice to the other provisions of this Constitution, there is high treason when the President of the Republic has intentionally violated the Constitution or when he or the Prime Minister are identified [as] authors, coauthors or accomplices of grave violations and [those] characterized [as] violations of the Rights of Man, or of the cession of a part of the national territory.

Infringements of honor and of probity are notably when the personal comportment of the President of the Republic or of the Prime Minister is contrary to morality or when they are identified as authors, co-authors or accomplices of embezzlement, of corruption or illicit enrichment.

There is crime of privilege of the President of the Republic or of the Prime Minister when he conducts activities concerning immovable assets or merchandise with regard to which he possesses privileged information and by which he profited before this information was made known to the public. The crime of privilege encompasses the purchase and the selling of shares based on information which would never be divulged to the shareholders.

There is contempt of Parliament when[,] on the questions posed by either of the Chambers of Parliament on the governmental activity, the Prime Minister does not furnish any response within a time period of thirty days.

Article 166

The decision to prosecute as well as to bring charges against the President of the Republic and the Prime Minister are voted by a majority of two-thirds of the members of Parliament assembled in Congress following the procedure specified by the Internal Regulations.

The decision to prosecute as well as to bring charges against the members of the Government are voted by an absolute majority of the members composing the National Assembly following the procedures specified by the Internal Regulations.

The members of the Government [so] charged, present their resignation.

Article 167

In case of conviction, the President of the Republic and the Prime Minister are relieved of their responsibilities. The termination is declared by the Constitutional Court.

For the infractions committed outside of the exercise of their functions, the prosecutions against the President of the Republic and the Prime Minister are suspended until the expiration of their mandates. During this time, prescription is suspended.

Article 168

The orders of the Constitutional Court are not susceptible to any recourse and are immediately executory. They are obligatory and [are] imposed on the public powers, on all the administrative, and jurisdictional, [and] civil and military authorities as well as on individuals.

Any act declared non-conforming to the Constitution is null[,] of right.

- Head of government removal
- Head of state removal

- Head of government removal
- Head of state removal

- Head of government removal
- Head of state removal
- Constitutionality of legislation

Article 169

The organization and functioning of the Constitutional Court are determined by an organic law.

Section 5: Of Public Finance

Paragraph 1: Of General Provisions

Article 170

The Congolese Franc is the monetary unit of the Democratic Republic of the Congo. It has the power of legal tender [pouvoir libérateur] on all the national territory.

Article 171

The finances of the Central Power and those of the Provinces are separate.

Article 172

The fiscal year starts on the first of January and terminates on 31 December.

Article 173

The general account of the Republic is submitted each year to Parliament by the Court of Accounts with its observations.

The general account of the Republic is ordered [arrêté] by the law.

Article 174

Taxes can only be established by the law.

The contribution to the public expenses constitutes a duty for every person living in the Democratic Republic of the Congo.

Tax exemption or relief can only be established by virtue of the law.

Article 175

The budget of receipts and of expenses of the State, specifically that of the Central Power and of the Provinces, is ordered each year by a law.

The percentage of receipts of national character allocated to the Provinces is prescribed at 40%. It is retained at its source.

The law establishes the nomenclature of the other local receipts and the modalities of their distribution.

Paragraph 2: Of the Central Bank

Article 176

• Central bank

The Central Bank of Congo is the issuing institution of the Democratic Republic of the Congo.

In this capacity, its mission includes:

1. the guarding of the public funds;
2. monetary safeguarding and [monetary] stability;
3. the definition and the implementation of monetary policy;
4. the control of all banking activities;
5. the economic and financial council of the Government.

For the realization of these missions and attributions, the Central Bank of the Congo is independent and enjoys autonomy of management.

Article 177

The organization and functioning of the Central Bank of the Congo are established by an organic law.

Paragraph 3: Of the Court of Accounts

Article 178

A Court of Accounts is instituted in the Democratic Republic of the Congo.

The Court of Accounts relates to the National Assembly.

The members of the Court of Accounts are appointed, relieved of their functions and, the case requiring, revoked by the President of the Republic, after the opinion of the National Assembly.

The members of the Court of Accounts must demonstrate a high qualification in financial, juridical or administrative matters and a professional experience of at least ten years.

Article 179

The composition, the organization and the functioning of the Court of Accounts are established by an organic law.

Article 180

The Court of Accounts controls, under the conditions established by the law, the management of the finances of the State, of the public assets as well as the accounts of the Provinces, of the decentralized territorial entities as well as the public organs.

It publishes each year, a report remitted to the President of the Republic, to the Parliament and to the Government.

The report is published in the Journal Officiel.

Paragraph 4: Of the Caisse Nationale de Péréquation [National Fund for Equalization]

Article 181

A Caisse Nationale de Péréquation is instituted. It is endowed with juridical personality.

The Caisse Nationale de Péréquation has the mission to finance the projects and programs of public investment, with a view to assure nationally solidarity and to correct the unequal development between the Provinces and between the other decentralized territorial entities.

It disposes of a budget provided by the Public Treasury at the rate of ten percent of all the receipts of national character due to the State each year.

It is placed under the oversight of the Government.

An organic law establishes its organization and its functioning.

Section 6: Of the National Police and of the Armed Forces

Paragraph 1: Of the National Police

Article 182

The National Police is responsible for the public security, the security of persons and of their assets, of the maintenance and of the re-establishment of the public order as well as the close protection of the high authorities.

Article 183

The National Police is apolitical. It is at the service of the Congolese Nation. No one may direct it for his own purposes.

The National Police exercises its acts on the whole of the national territory with respect for this Constitution and the laws of the Republic.

Article 184

The National Police is subject to the local civil authority and is placed under the responsibility of the Minister who has interior affairs among his attributions.

Article 185

The personnel [effectifs], at all levels, [and] the functions of command at all times and in all circumstances, must take account of objective criteria linked to both physical aptitude, to sufficient instruction and to a proven morality as well as to an equitable representation of the Provinces.

Article 186

An organic law establishes the organization and the functioning of the National Police.

Paragraph 2: Of the Armed Forces

Article 187

The Armed Forces consist of the land force, the air force, the naval force and their services of support.

They have the mission to defend the integrity of the national territory and the frontiers. Under the conditions specified by the law, they participate, in times of peace, in the economic, social and cultural development as well as the protection of persons and of their assets.

Article 188

The Armed Forces are republican. They are at the service of the entire Nation.

No one may, under penalty of high treason, direct them for their own purposes.

They are apolitical and subject to the civil authority.

Article 189

The personnel, at all levels, [and] the functions of command at all times and in all circumstances, must take account of objective criteria linked to both physical aptitude, to sufficient instruction and to a proven morality as well as to an equitable representation of the Provinces.

Article 190

No one may, under penalty of high treason, organize military groups, paramilitary [groups] or private militias, or maintain a youth army.

Article 191

An organic law determines the organization and the functioning of the Armed Forces.

Article 192

A Superior Council of Defense is instituted.

The Superior Council of Defense is presided over by the President of the Republic and, in the case of his absence or incapacity, by the Prime Minister.

An organic law determines the organization, the composition, the attributions and the functioning of the Superior Council of Defense.

Section 7: Of the Public Administration

Article 193

The Public Administration is apolitical, neutral and impartial. No one may direct it for personal or partisan ends.

It consists of the public function [fonction publique] as well as similar organs and services.

Article 194

An organic law establishes the organization and the functioning of the public services of the Central Power, of the Provinces and of the decentralized territorial entities.

Chapter 2: Of the Provinces

Section 1: Of the Provincial Political Institutions

Article 195

The Provincial Institutions are:

1. the Provincial Assembly;
2. the Provincial Government.

Article 196

The Provinces are organized in accordance with the principles provided by Article 3 of this Constitution.

The territorial subdivisions interior to the Provinces are determined by an organic law.

Article 197

[Amended by Law No. 11/002 of 20 January 2011.]

The Provincial Assembly is the deliberative organ of the Province. It deliberates in the domain of the competences reserved to the Province and controls the Provincial Government as well as the provincial and local public services.

It legislates by way of edict.

Its members are called Provincial Deputies.

They are elected by universal, direct and secret suffrage or designated [cooptés] for a mandate of five years, renewable.

The number of the designated Provincial Deputies may not exceed a tenth of the members composing the Provincial Assembly.

Without prejudice to the other provisions of this Constitution, the provisions of Articles 100, 101, 102, 103, 107, 108, 109 and 110 are applicable, mutatis mutandis, to the Provincial Assemblies and to their members.

When a grave and persistent political crisis threatens to interrupt the regular functioning of the provincial institutions, the President of the Republic can, by an ordinance deliberated in the Council of Ministers and after agreement with the Bureaus of the National Assembly and of the Senate, dissolve the Provincial Assembly. In this case, the Independent National Electoral Commission organizes the provincial elections within a time period of sixty days counting from the dissolution.

In case of force majeure, this time period can be prolonged to one hundred twenty days at most, by the Constitutional Court referred to [the matter] by the Independent National Electoral Commission.

Article 198

[Amended by Law No. 11/002 of 20 January 2011.]

The Provincial Government consists of a Governor, of a Vice Governor and of the Provincial Ministers.

The Governor and the Vice Governor are elected for a mandate of five years, renewable one time, by the Provincial Deputies from within or from outside of the Provincial Assembly. They are invested by ordinance of the President of the Republic.

The Provincial Ministers are designated by the Governor from within or from outside of the Provincial Assembly.

The composition of the Provincial Government takes into account the provincial representation.

The number of Provincial Ministers may not exceed ten.

Before entering into [his] functions, the Governor presents to the Provincial Assembly the program of his Government.

When this program has been approved by an absolute majority of the members composing the Provincial Assembly, it invests the Ministers.

The members of the Provincial Government can be, collectively or individually, relieved of their functions by the vote of a motion of censure or of no confidence of the Provincial Assembly.

The provisions of the Articles 146 and 147 of this Constitution apply, mutatis mutandis, to the members of the Provincial Government.

When a grave and persistent political crisis threatens to interrupt the regular functioning of the provincial institutions, the President of the Republic can, by an ordinance deliberated in the Council of Ministers and after agreement with the Bureaus of the National Assembly and of the Senate, relieve the Governor of a Province of his functions. In this case, the Independent National Electoral Commission organizes the election of a new Governor within a time period of thirty days.

Article 199

Two or more Provinces can, by common accord, create a framework for the harmonization and coordination of their respective policies and manage in common certain services of which the attribution concerns matters within their competence.

Article 200

A Conference of Provincial Governors is instituted.

It has the mission to issue opinions and to formulate suggestions on the policy to be taken and the legislation to be enacted by the Republic.

The Conference of Provincial Governors is composed, in addition to the Provincial Governors, of the President of the Republic, of the Prime Minister and of the Minister of the Interior. Any other member of the Government may be invited into it.

It is presided over by the President of the Republic.

It meets at least twice per year on convocation of its President.

It is held by rotation in each Province.

An organic law determines the modalities of the organization and of the functioning.

Section 2: Of the Distribution of Competences Between the Central Power and the Provinces

Article 201

The division of competences between the Central Power and the Provinces is established by this Constitution.

The matters are, either of the exclusive competence of the Central Power, or of the concurrent competence of the Central Power and the Provinces, or of the exclusive competence of the Provinces.

Article 202

Without prejudice to the other provisions of this Constitution, the following matters are of the exclusive competence of the Central Power:

1. foreign affairs including diplomatic relations as well as international treaties and agreements;
2. the regulation of foreign trade;
3. nationality, status and the policing of foreigners;
4. extradition, immigration, emigration and the issuance of passports and of [the]visa;
5. the external security;
6. the national defense;
7. the national police;
8. the national public function;
9. the public finances of the Republic;
10. the establishment of taxes on revenue, taxes on [commercial] societies and personal taxes in accordance with Article 174;
11. the public debt of the Republic;
12. foreign loans for the needs of the Republic or of the Provinces;
13. domestic loans for the needs of the Republic;

14. the currency, the issuance of currency and the power of legal tender of the currency;
15. weights, measures and informatics;
16. customs and the regime [droits] of importation and exportation;
17. regulation concerning banks and banking and exchange operations;
18. exchange regulations;
19. literary, artistic and industrial property and patents;
20. posts and telecommunications, including telephones and telegraphs, broadcasting, television and satellites;
21. maritime and internal navigation, air routes, railways, the routes and other means of communication, natural or artificial, which connect two or more Provinces or the territory of the Republic to a foreign territory or which a national law has declared of national interest although they may be entirely situated on the territory of a Province;
22. the universities and other establishments of superior scientific, technical or professional education created or subsidized by the Central Government or by the Provincial Governments and which a national law has declared of national interest;
23. the establishment of norms of education applicable to all the territories of the Republic;
24. the acquisition of assets for the needs of the Republic, without prejudice to the provisions of Article 34;
25. the elaboration of agricultural, forestry and energy programs of national interest and the coordination of programs of provincial interest;

The agencies [offices] of agricultural products and the similar organs as well as the deployment [répartition] of the personnel [cadres], in accordance with the status of the career officers of the public services of the State;

The energy, agricultural and forestry regimes concerning hunting and fishing, concerning the conservation of nature (flora and fauna), concerning the capture [and] breeding of animals, foodstuffs of animal origin and concerning the veterinary arts;

26. the protection against dangers caused by energy or by radiation and the elimination of radioactive substances;
27. the prevention of abuses by the economic forces [puissances];

28. the historical patrimony, the public monuments and the parks declared of national interest;

29. the meteorologic services and the technical coordination of the services of surveying, of cartography and of hydrography;

30. the appointment and the assignment of the provincial inspectors of primary, secondary, professional and special education;

31. statistics and census-taking of national interest;

32. national planning;

33. scientific and technological research;

34. the national development [directeurs] plans concerning the development of basic infrastructure, notably the ports, the airports and the railway stations;

35. the assistance for war veterans and [those] handicapped by war;

36. legislation concerning[,] notably;

a. the code of commerce, including insurance, the constitution and approval [agrément] of companies;

b. the penal code and the prison regime;

c. the code of judicial organization and competence and the judicial code;

d. legislation on the liberal professions;

e. labor legislation including notably the laws governing the relations between employers and workers, the security of workers, the rules concerning social security and, in particular, the rules concerning social insurance and involuntary unemployment;

f. economic legislation including the laws concerning mines, minerals and mineral oils, the industry, the energy sources and the conservation of natural resources;

g. legislation on the arts and trades;

• Economic plans

• State support for the disabled

- h. legislation [concerning] medicine and the art of healing, preventive medicine, notably hygiene, the public health and the protection of mother and child, legislation on the profession of pharmacist, on pharmaceutical commerce, on immigration and transit, bilateral and international sanitary regulations, legislation on hygiene at work, the technical coordination of medical laboratories and the distribution [répartition] of doctors;
- i. the electoral law;
- j. legislation on the fabrication, the rectification, the importation, the exportation and the selling of alcohol obtained by distillation;
- k. legislation on the fabrication, the importation, the exportation, [and] the selling of alcoholic and non-alcoholic drinks;
- l. legislation on the fabrication, the importation, the exportation [and] the transit of materiel of war;
- m. legislation on the artificial insemination of the human being, on the manipulation of genetic information and on the transplantation of human organs and tissues;
- n. legislation on refugees, the expelled and displaced persons;
- o. legislation on the admission to the medical professions and to the other professions and activities.

Article 203

Without prejudice to the other provisions of this Constitution, the following matters are of the concurrent competence of the Central Power and the Provinces:

1. the implementation of the mechanisms of promotion and of protection of the human rights and fundamental freedoms consecrated in this Constitution;
2. the civil and customary rights;
3. statistics and census-taking;
4. domestic security;
5. the administration of courts and tribunals, jails and correctional facilities [maisons] and prisons;
6. culture and sports life;

• Census

7. the establishment of taxes, including excise taxes and [taxes] on consumables, with the exclusion of the taxes specified in Article 174;
8. the execution of measures concerning the policing of foreigners;
9. scientific and technological research as well as scholarships, the continuation [perfectionnement] and encouragement of research;
10. medical and philanthropic institutions, the employment of supervisors for medical and agricultural personnel;
11. the implementation of programs of meteorology, of geology, of cartography and of hydrology;
12. natural disasters;
13. the press, radio, television, and the film industry;
14. civil protection;
15. tourism;
16. land and mining rights, territorial management, the regime of waters and forests;
17. the prevention of human and animal epidemics dangerous to the collectivity;
18. protection of the environment, of natural sites, of landscapes and of the conservation of sites;
19. the regulation concerning the regimes [of] energy, agriculture and forests, livestock, [and] foodstuffs of animal or vegetable origin;
20. the creation of establishments of primary, secondary, superior and university [education];
21. road traffic, automotive traffic [circulation], the construction and maintenance of routes of national interest, the collection and distribution of tolls for the use of routes constructed by the Central Power and/or by the Province;
22. medical and philanthropic institutions;
23. the initiative of projects, programs and agreements of international economic, cultural, scientific and social cooperation;
24. the production, transport, use and exploitation of energy;

- Radio
- Television

- Ownership of natural resources

- Protection of environment

25. the protection of vulnerable groups and persons.

Article 204

Without prejudice to the other provisions of this Constitution, the following matters are of the exclusive competence of the Provinces:

1. the development plan of the Province;
2. inter-provincial cooperation;
3. the provincial and local public function;
4. the application of the norms concerning civil estate;
5. the provincial public finances;
6. the provincial public debt;
7. domestic loans for the needs of the Provinces;
8. the issuance and conservation of titles of real property with respect for the national legislation;
9. the organization of the small commerce [at the] frontier [petit commerce frontalier];
10. the organization and the functioning of the provincial public services, establishments and public enterprises with respect for the national legislation;
11. public works and contracts [marchés] of provincial and local interest;
12. the acquisition of assets for the needs of the Province;
13. maternal, primary, secondary, professional and special education as well as literacy of citizens, in accordance with the norms established by the Central Power;
14. the establishment of fines and prison penalties to assure the respect for edicts in accordance with the national legislation;
15. internal communications of the Provinces;
16. provincial and local taxes, and duties and assessments [droits], notably property tax, tax on local revenue and the tax on motor vehicles;

17. the establishment of provincial minimum wages, in accordance with the national legislation;
18. the assignment of the medical personnel, in accordance with the status of the career officers of the public services of the State, the drafting of programs of sanitation and of the struggle against endemic/epidemic diseases in accordance with the national plan: the organization of the services for provincial hygiene and prophylaxis, the application and control of the national medical and pharmaceutical legislation as well as the organization of the services of curative medicine, of philanthropic and missionary services, of medical laboratories and of pharmaceutical services, of the organization and promotion of primary health care;
19. the drafting of mining, mineralogy, industrial [and] energy programs of provincial interest and their execution in accordance with the general norms of national planning;
20. the drafting of agricultural and forestry programs and their execution in accordance to the norms of national planning, the assignment of agricultural personnel, [and] of the staff [cadres] in accordance with the provisions of the status of the career officers of the public services of the State, the application of the national legislation concerning agriculture, the forest, hunting and fishing as well as the environment, the conservation of nature and the capture of wild animals, the organization and the control of agricultural campaigns, the establishment of prices for agricultural products;
21. the assignment in the Province of veterinary personnel, in accordance with the provisions of the status of the career officers of the public services of the State; the drafting of programs of campaigns for animal health and the application of measures of veterinarial sanitation policing, notably in that which concerns frontier posts and quarantine;
22. the organization of vaccination campaigns against animal diseases, the organization of laboratories, clinics and dispensary providers as well as the application of the national legislation in veterinary matters, [and] the organization of the promotion of basic health;
23. tourism, the historical patrimony, the public monuments and the parks of provincial and local interest;
24. urban und rural housing, highway maintenance [voirie] and the collective provincial and local equipment;
25. the inspection of provincial cultural and sports activities;
26. the exploitation of non-nuclear sources of energy and the production of water for the needs of the Province;
27. the execution of measures of the rights of residence and establishment of foreigners, in accordance with the law;

28. the execution of customary law;

29. provincial planning.

Article 205

A Provincial Assembly cannot legislate on the matters of the exclusive competence of the Central Power. Reciprocally, the National Assembly and the Senate cannot legislate on the matters of the exclusive competence of a Province.

However, the National Assembly and the Senate may, by a law, enable a Provincial Assembly to make edicts on the matters of the exclusive competence of the Central Power. When the National Assembly and the Senate terminate the delegation of power so given to the Provincial Assembly, the provisions of the provincial edicts promulgated in matters of the exclusive competence of the Central Power by virtue of the delegation of power, remain nevertheless in force in the interested Province until a national law has regulated those matters.

In Parallel, a Provincial Assembly can, by an edict, enable the National Assembly and the Senate to legislate on matters of the exclusive competence of the Province.

When the Provincial Assembly terminates the delegation of power so given to the National Assembly and the Senate, the provisions of the national laws promulgated in the matters of the exclusive competence of the Provinces, by virtue of the delegation of power, remain nevertheless in force in the interested Province until a provincial edict has regulated them.

In the matters concerning the concurrent competence of the Central Power and the Provinces, any provincial edict incompatible with the national laws and regulations of execution is null and abrogated of plain right, to the extent that there is incompatibility.

The national legislation takes precedence over the provincial edict.

Article 206

Excepting provisions of the national legislation to the contrary, the Provincial Governments execute, by the intermediary of their services, the national laws and regulations.

Section 3: Of the Customary Authority

Article 207

The customary authority is recognized.

It is devolved conforming to local custom, provided that it is not contrary to the Constitution, to the law, to public order and to good morals.

Each customary chief [who] desires to exercise a public elective mandate must submit himself to election, except in application of the provisions of Article 197, paragraph 3 of this Constitution.

The customary authority has the duty to promote national unity and cohesion.

A law establishes the status of the customary chiefs.

TITLE IV: OF THE ECONOMIC AND SOCIAL COUNCIL

Article 208

An Economic and Social Council is instituted in the Democratic Republic of the Congo.

Article 209

The Economic and Social Council has the mission to give its consultative advice on the economic and social questions submitted to it by the President of the Republic, the National Assembly, the Senate and the Government.

It can, on its own initiative, bring the attention of the Government and of the Provinces to the reforms which appear to it as favorable to the economic and social development of the country.

Article 210

An organic law determines the organization and the functioning of the Economic and Social Council.

TITLE V: OF THE INSTITUTIONS IN SUPPORT OF DEMOCRACY

Chapter 1: Of the Independent National Electoral Commission

Article 211

An Independent National Electoral Commission is instituted with juridical personality.

The Independent National Electoral Commission is responsible for the organization of the electoral process, notably of the registration of the electors, of the maintenance of the electoral list [fichier électoral], the operations of the vote, of the counting and of any referendum.

It assures the regularity of the electoral and referendum process.

An organic law establishes the organization and the functioning of the Independent National Electoral Commission.

• Electoral commission

Chapter 2: Of the Superior Council for Audiovisual Media and of Communication

Article 212

A Superior Council for Audiovisual Media and of Communication is instituted with juridical personality.

It has the mission to guarantee and to assure the freedom and the protection of the press, as well as of all the means of mass communication with respect for the law.

It sees to the respect for that which is dutiful [de la déontologie] in matters of information and to the equitable access of the political parties, of the associations and of the citizens to the official means of information and of communication.

The composition, the attributions, the organization and the functioning of the Superior Council for Audiovisual Media and Communication are established by an organic law.

TITLE VI: OF THE INTERNATIONAL TREATIES AND AGREEMENTS

Article 213

The President of the Republic negotiates and the ratifies international treaties and agreements.

The Government concludes the international agreements not submitted to ratification after deliberation in the Council of Ministers. It so informs the National Assembly and the Senate.

Article 214

The peace treaties, the treaties of commerce, the treaties and agreements of concern to the international organizations and to the regulation of international conflicts, those which engage the public finances, those which modify the legislative provisions, those which concern the status of persons, [and] those which involve the exchange and addition of territory, may only be ratified or approved by virtue of a law.

No cession, no exchange [or] no addition of territory is valid without the agreement of the Congolese People consulted by way of referendum.

Article 215

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

• Media commission

• International law
• Treaty ratification

• International law

• International law
• Legal status of treaties

Article 216

If the Constitutional Court consulted by the President of the Republic, by the Prime Minister, the President of the National Assembly or the President of the Senate, by a tenth of the Deputies or a tenth of the Senators, declares that an international treaty or agreement includes a clause contrary to the Constitution, the ratification or approval may only intervene after the revision of the Constitution.

Article 217

The Democratic Republic of the Congo may conclude treaties or agreements of association or of community which involve a partial relinquishment of sovereignty with a view to promote African unity.

TITLE VII: OF THE REVISION OF THE CONSTITUTION

Article 218

[Amended by Law No. 11/002 of 20 January 2011.]

The initiative of the constitutional revision belongs concurrently:

1. to the President of the Republic;
2. to the Government after deliberation in the Council of Ministers;
3. to either of the Chambers of the Parliament at the initiative of half of its members;
4. to a fraction of the Congolese people, with the concurrence of 100,000 persons, expressed by petition addressed to one of the two Chambers.

Each of these initiatives is submitted to the National Assembly and to the Senate which decide, with the absolute majority of each Chamber, on the substance of the Bill, of the proposal or of the petition for revision.

The revision is only definitive if the Bill, the proposal or the petition is approved by referendum on the convocation of the President of the Republic.

However, the Bill, the proposal or the petition is not submitted to referendum when the National Assembly and the Senate meeting in Congress approve it by the majority of three-fifths of the members composing it.

Article 219

No revision may intervene during the state of war, the state of urgency or the state of siege, or during the interim in the Presidency of the Republic or when the National Assembly and the Senate are prevented from meeting freely.

• Unamendable provisions

Article 220

The republican form of the State, the principle of universal suffrage, the representative form of Government, the number and the duration of the mandates of the President of the Republic, the independence of the Judicial Power, [and] political and trade union pluralism, cannot be made the object of any constitutional revision.

Any constitutional revision having for its object or for [its] effect the reduction of the rights and freedoms of the person or the reduction [of] the prerogatives of the Provinces and the decentralized territorial entities is formally prohibited.

TITLE VIII: OF THE TRANSITORY AND FINAL PROVISIONS

• Transitional provisions

Article 221

Provided that they are not contrary to this Constitution, the legislative and regulatory texts in force continue to maintain it until their abrogation or their modification.

Article 222

The political institutions of the transition remain in function until the effective installation of the corresponding institutions provided for by this Constitution, and exercise their attributions in accordance with the Constitution of the Transition.

The institutions in support of democracy are dissolved of plain right on the installation of the new Parliament.

However, by organic law, the Parliament may, if necessary, institute other institutions in support of democracy.

Article 223

Until the installation of the Constitutional Court, of the Council of State and of the Court of Cassation, the Supreme Court of Justice exercises the attributions devolved to them by this Constitution.

Article 224

Until the installation of the jurisdictions of the administrative order, the Courts of Appeal exercise the competences devolved to the Administrative Courts of Appeal.

Article 225

The Court of Security of the State [Cour de Sureté de l'Etat] is dissolved on the entry into force of this Constitution.

Article 226

[Amended by Law No. 11/002 of 20 January 2011.]

A program-law establishes the modalities of installation of the new Provinces cited in Article 2 of this Constitution. Until [that time], the Democratic Republic of Congo is composed of the city of

Kinshasa and of the following ten Provinces [which are] endowed with juridical personality: Bandundu, Bas-Congo, Equateur, Kasai-Occidental, Kasai-Oriental, Katanga, Maniema, Nord-Kivu, Province Orientale, Sud-Kivu.

Article 227

The Provinces which are enumerated by Article 2 of this Constitution constitute the electoral circumscriptions of the Senators of the first legislature. The electoral law determines the conditions of attribution for an additional quota to the city of Kinshasa for the election of the Senators.

Article 228

Without prejudice to the provisions of Article 222, paragraph 1, the Transitional Constitution of the Transition of 4 April 2003 is abrogated.

Article 229

This Constitution, adopted by referendum, enters into force on its promulgation by the President of the Republic.

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