

THE CONSTITUTION OF THE DEMOCRATIC REPUBLIC OF THE CONGO, 2005<sup>[1]</sup>

**Table of Contents**

[PREAMBLE](#)

[TITLE I GENERAL PROVISIONS](#)

[Chapter 1 The State and Sovereignty](#)

[Chapter 2 Nationality](#)

[TITLE II HUMAN RIGHTS, FUNDAMENTAL LIBERTIES AND THE DUTIES OF THE CITIZEN AND THE STATE](#)

[Chapter 1 Civil and Political Rights](#)

[Chapter 2 Economic, Social and Cultural Rights](#)

[Chapter 3 Collective Rights](#)

[Chapter 4 The Duties of the Citizen](#)

[TITLE III THE ORGANIZATION AND THE EXERCISE OF POWER](#)

[Chapter 1 The Institutions of the Republic](#)

[TITLE IV THE PROVINCES](#)

[Chapter 1 The Provincial Institutions](#)

[Chapter 2 The Distribution of Competences Between the Central Authority and the Provinces](#)

[Chapter 3 Customary Authority](#)

[TITLE V THE ECONOMIC AND SOCIAL COUNCIL](#)

[TITLE VI DEMOCRACY-SUPPORTING INSTITUTIONS](#)

[Chapter 1 The Independent National Electoral Commission](#)

[Chapter 2 The High Council for Audiovisual Media and Communication](#)

[TITLE VII INTERNATIONAL TREATIES AND AGREEMENTS](#)

[TITLE VIII THE REVISION OF THE CONSTITUTION](#)

[TITLE IX TRANSITORY AND FINAL PROVISIONS](#)

---

## PREAMBLE

We, the Congolese People,

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

Driven by our common will to build in the heart of Africa a State under the rule of law and a powerful and prosperous Nation based on a real political, economic, social and cultural democracy;

Considering that injustice and its corollaries, impunity, nepotism, regionalism, tribalism, clan rule and patronage are, due to their manifold vices, at the origin of the general decline of values and the ruin of the country;

Affirming our determination to safeguard and consolidate national independence and unity by respecting our positive diversities and particularities;

Reaffirming our adherence and attachment to the *Universal Declaration of Human Rights*, the *African Charter on Human and Peoples' Rights*, the United Nations Conventions on the Rights of the Child and the Rights of Women, particularly to the goal of equal representation of men and women in the institutions of the country, as well as to the international instruments relating to the protection and promotion of human rights;

Driven by the will to see all African States united and working together with a view to promoting and consolidating African unity through the continental, regional and sub-regional organizations in order to offer better perspectives for development and socio-economic progress to the peoples of Africa;

Committed to the promotion of mutually beneficial international cooperation and the rapprochement of the peoples of the world, while at the same time respecting their respective identities and the principles of sovereignty and territorial integrity of each State;

Reaffirming our inalienable and immutable right to organize ourselves freely and to develop our political, economic, social and cultural life in accordance with our own genius;

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

Declare to solemnly adopt this Constitution.

## TITLE I GENERAL PROVISIONS

### Chapter 1 The State and Sovereignty

#### Section 1 The State

#### Article 1

The Democratic Republic of the Congo is, within its borders of 30 June 1960, a State based on the rule of law, independent, sovereign, united and indivisible, social, democratic and secular.

Its emblem is the sky-blue flag with a large yellow star in the upper left corner and crossed diagonally by a red strip lightly framed by yellow.

Its motto is “Justice–Peace–Work.”

Its coat of arms consists of a leopard’s head framed on the left, and on the right by an ivory tusk and a spear, all of which rests on a stone.

The national anthem is “Get up Congolese!”(*Debout Congolais!*).

Its currency is the “Congolese Franc.”

Its official language is French.

The national languages are Kikongo, Lingala, Swahili and Tshiluba. The State guarantees their promotion without discrimination.

The other languages of the country are part of the Congolese cultural heritage of which the State ensures protection.

## Article 2

The Democratic Republic of the Congo consists of the city of Kinshasa and 25 provinces which possess legal personality.

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

Kinshasa is the capital of the country and the seat of the national institutions. It has the status of a Province. The capital may not be transferred to another place in the country except by referendum.

The distribution of powers between the State and the provinces takes place in accordance with the provisions of Title IV of this Constitution.

The boundaries of the provinces and those of Kinshasa are determined by organic law.

## Article 3

The provinces and the decentralized territorial entities of the Democratic Republic of the Congo possess legal personality and are managed by local authorities.

These decentralized territorial entities are the city, the commune, the sector and the chiefdom (*la chefferie*).

They enjoy administrative freedom and managerial autonomy with regard to their economic, human, financial and technical resources.

The composition, organization and functioning of these decentralized territorial entities as well as their relations with the State and the provinces are determined by organic law.

#### Article 4

New provinces and territorial entities may be created by dismemberment or by reorganization under the conditions prescribed by the Constitution and by law.

#### Section 2 Sovereignty

#### Article 5

National sovereignty belongs to the people. All power emanates from the people as exercised directly by way of referendum or elections or indirectly through their representatives.

No section of the people nor any individual may attribute its exercise to themselves or to himself.

The law determines the conditions for the organization of 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 who are over the age of eighteen and enjoy their civil and political rights are entitled, under the conditions prescribed by law, to vote and to stand at elections.

#### Article 6

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

Every Congolese who enjoys his/her civil and political rights has the right to create a political party or to become a member of a political party of his/her choice.

The political parties participate in the expression of the popular will, the strengthening of the national conscience and civic education. They form and exercise their activities freely while respecting the law, public order and morality.

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

The political parties may receive public funds from the State for the financing of their electoral campaigns and other activities under the conditions defined by the law.

#### Article 7

No one may establish, in any form whatsoever, a single party on all or part of the national territory.

The establishment of a single party constitutes a crime of high treason punishable by law and not subject to the statute of limitations.

#### Article 8

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

An organic law determines the status of political opposition.

#### Article 9

The State exercises permanent sovereignty over the Congolese soil, subsoil, water resources and woods, air space, rivers, lakes and maritime space as well as over the Congolese territorial sea and the continental shelf.

The conditions for the management and the granting of concessions with regard to the State domain referred to in the preceding paragraph are determined by law.

### Chapter 2 Nationality

#### Article 10

Congolese nationality is one and exclusive. It may not be held together with another nationality.

The Congolese nationality is obtained either by origin or by individual acquisition.

Of Congolese origin are all persons who belong to ethnic groups whose members and territory formed what has become the Congo (presently the Democratic Republic of the Congo) upon its independence.

An organic law determines the conditions for the recognition, acquisition, loss and recovery of Congolese nationality.

## TITLE II HUMAN RIGHTS, FUNDAMENTAL LIBERTIES AND THE DUTIES OF THE CITIZEN AND THE STATE

### Chapter 1 Civil and Political Rights

#### Article 11

All human beings are born free and equal in dignity and rights. However, the enjoyment of political rights is granted to Congolese [nationals] only, save for the exceptions provided by the law.

#### Article 12

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

#### Article 13

No Congolese person may, in matters of education or access to public functions or any other matter, be subject to any discriminatory measure, whether it results from a statute or from a measure of the executive, on the ground of his/her religion, family origin, social condition, residence, views or political convictions, or membership of a certain race, ethnicity, tribe, cultural or linguistic minority.

#### Article 14

The public authorities see to the elimination of all forms of discrimination against women and ensure the protection and promotion of their rights.

They take in all areas, and most notably in the civil, political, economic, social and cultural areas, all appropriate measures in order to ensure the full realization of the potential of women and their full participation in the development of the nation.

They take measures in order to fight all forms of violence against women in their public and private life.

Women are entitled to equitable representation in national, provincial and local institutions.

The State guarantees the achievement of parity between men and women in said institutions.

The law determines the conditions for the application of these rights.

#### Article 15

The public authorities are responsible for the elimination of sexual violence used as an instrument in the destabilization and displacement of families.

International treaties and agreements notwithstanding, any sexual violence committed against any person with the intention to destabilize or to displace a family and to make a whole people disappear is established as a crime against humanity punishable by law.

#### Article 16

The individual is sacred. The State has the obligation to respect and protect him/her.

All persons have the right to life, physical integrity and to the free development of their personality, while respecting the law, public order, the rights of others and public morality.

No one may be held in slavery or in a similar condition.

No one may be subject to cruel, inhumane or degrading treatment.

No one may be submitted to forced or compulsory labor.

#### Article 17

Individual liberty is guaranteed. It is the rule, detention the exception.

No one may be prosecuted, arrested, detained or sentenced except by virtue of a law and in the manner which the latter prescribes.

No one may be prosecuted for an act or omission which does not constitute a violation of the law at the time it was committed and at the time of the prosecution.

No one may be sentenced for an action or omission which does not constitute a violation of the law both at the time it was committed and at the time of the sentencing.

No harsher punishment than that which was applicable at the time the violation was committed may be imposed.

The execution of the punishment is stopped if, by virtue of a law issued after judgment is rendered:

- the punishment is cancelled;
- the act for which it has been imposed no longer constitutes a violation of the law.

In the case of the reduction of the punishment by virtue of a law issued after judgment is rendered, the punishment is executed in accordance with the new law.

Criminal responsibility is individual. No one may be prosecuted, arrested, detained or sentenced for acts committed by others.

Any person accused of a violation of the law is presumed innocent until his/her guilt has been proven by a final judgment.

#### Article 18

Any person who has been arrested must be immediately informed of the reasons for his/her arrest and of any accusation made against him/her, and this in a language which he/she understands.

He/she must be immediately informed of his/her rights.

A person kept in custody has the right to immediately contact his/her family and his/her counsel.

Custody may not exceed forty-eight hours. On expiry of this period, the person in custody must be released or placed in the hands of the competent judicial authority.

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

#### Article 19

No person may be removed or transferred against his will from the judge who has been assigned to hear his/her case.

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

The right to defense is organized and guaranteed.

All persons have the right to defend themselves or to be assisted by counsel of their choice at all stages of the criminal procedure, including the police investigation and the pre-trial enquiry.

They may also be assisted [by counsel] before the security forces.

#### Article 20

The hearings of the courts and tribunals are public unless this publicity is deemed to be dangerous for public order or public morality. In this case, the tribunal orders a court hearing *in camera*.

#### Article 21

All judgments are written and substantiated. They are pronounced at a public hearing.

The right to appeal against a judgment is guaranteed to all. It is exercised in the manner determined by law.

#### Article 22

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

All persons have the right to express their religion or their convictions, alone or together with others, both in public and in private, by worship, teaching, practices, carrying out of rites and a religious way of living, subject to respect for the law, public order, morality and the rights of others.

The law determines the conditions for the exercise of these liberties.

#### Article 23

All persons have the right to freedom of expression.



This right implies the freedom to express their opinions and convictions, in particular by speech, in print and through pictures, subject to respect for the law, public order and morality.

#### Article 24

All persons have the right to information.

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

The law determines the conditions for the exercise of these liberties.

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

#### Article 25

The freedom of peaceful meetings without weapons is guaranteed subject to respect for the law, public order and morality.

#### Article 26

The freedom of demonstration is guaranteed.

All demonstrations on public roads or in open air oblige 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 application measures.

#### Article 27

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

No one may be subject to discrimination in any form whatsoever for having taken such an initiative.

#### Article 28

No one is obliged to execute a manifestly illegal order. Every individual, every State agent is relieved from the duty to obey if the order constitutes a manifest infringement of the respect of human rights and public liberties and morality.

The burden of proof of the manifest illegality of the order rests upon the person who refuses to execute it.

## Article 29

The domicile is inviolable. Visits or searches may only be carried out in the forms and conditions provided for by law.

## Article 30

All persons in the national territory have the right to move freely therein, to establish their residence therein, to leave it and come back to it under the conditions prescribed by law.

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

## Article 31

All persons have the right to respect for their private life, for the confidentiality of their correspondence, telecommunications and any other form of communication. This right may only be interfered within the cases provided for by the law.

## Article 32

All foreign nationals who are legally in the national territory enjoy the protection granted to persons and their goods under the conditions defined by the treaties and the laws.

They are obliged to follow the laws and regulations of the Republic.

## Article 33

The right to asylum is recognized.

Subject to national security, the Democratic Republic of the Congo grants asylum on its territory to foreign nationals pursued or prosecuted in particular for their opinion, their belief, their racial, tribal, ethnic, linguistic affiliation or their action in favor of democracy and the defense of human and peoples' rights, in accordance with the laws and regulations in force.

All persons legally enjoying the right to asylum are prohibited from undertaking any subversive activity against their country of origin or any other country from the territory of the Democratic Republic of the Congo.

The refugees may neither be transferred 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 he/she risks torture, cruel, degrading or inhumane punishment or treatment.

The law establishes the conditions for the exercise of this right.

## Chapter 2

### Economic, Social and Cultural Rights

#### Article 34

Private property is sacred.

The State guarantees the right to individual or collective property acquired in accordance with law or custom.

It encourages and supervises the security of national and foreign private investments.

No one may be deprived of his/her property except for reasons of public utility and in return for prior payment of just compensation under the conditions established by law.

A person's assets may only be seized by virtue of a decision issued by a competent judicial authority.

#### Article 35

The State guarantees the right to private initiative to nationals as well as to foreigners.

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

The law determines the conditions for the exercise of this right.

#### Article 36

Work is a sacred right and duty for every Congolese.

The State guarantees the right to work, protection against unemployment and an equitable and satisfactory pay, thus ensuring the worker as well as his/her family of a life in accordance with human dignity, together with all other means of social protection, in particular retirement and lifetime pensions.

No one may be harmed in their work because of their origin, sex, opinions, beliefs or socio-economic conditions.

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

The law establishes the status of workers and regulates the details pertaining to the legal regime of the professional organizations and the exercise of professions which require a scholastic or academic qualification.

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

#### Article 37

The State guarantees the freedom of association.

The public authorities cooperate with the associations which contribute to the social, economic, intellectual, moral and spiritual development of the population and to the education of its citizens.

This cooperation may take the form of a subsidy.

The law determines the conditions for the exercise of this freedom.

#### Article 38

The right to form trade unions is guaranteed.

All Congolese have the right to establish trade unions or to join them freely under the conditions prescribed by law.

#### Article 39

The right to strike is recognized and guaranteed.

It is exercised under the conditions defined by the law which may forbid or limit its exercise in the areas of national defense and security, or for any activity or public service of vital interest for the nation.

#### Article 40

All individuals have the right to marry a person of their choice of the opposite sex and to create a family.

The family, the basic unit of the human community, is organized in a way which ensures its unity, stability and protection. It is placed under the protection of the public authorities.

For the parents, the care and the education to be given to children constitute a natural right and duty which they exercise under the control and with the assistance of the public authorities.

The children have the duty to assist their parents.

The law defines the rules on marriage and the organization of the family.

#### Article 41

Every person who has not yet completed 18 years of age is a minor, without distinction on grounds of sex.

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

They also have the right to enjoy the protection of their family, of society and of the public authorities.

The abandonment and maltreatment of children, in particular pedophilia, sexual abuse and the charge of engaging in witchcraft, are prohibited and punishable by law.

The parents have the duty to take care of their children and to ensure their protection against any act of violence inside as well as outside their parental home.

The public authorities have the obligation to ensure the protection of children in a difficult situation and to bring the authors of acts of violence against children and their accomplices to justice.

All others forms of exploitation of minors are severely punished in accordance with the law.

#### Article 42

The public authorities are obliged to protect the youth against any attack on their health, education or integral development.

#### Article 43

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

National education consists of public establishments and approved private establishments.

The law defines the conditions for the creation and functioning of these establishments.

The parents have the right to choose the way in which their children are educated.

Primary education is compulsory and free in the public establishments.

#### Article 44

The eradication of illiteracy is a national duty, the fulfillment of which the Government must elaborate a specific program.

#### Article 45

Education is free.

It is nevertheless subject to supervision by the public authorities under the conditions prescribed by law.

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

The national education establishments may, in cooperation with the religious authorities, ensure to pupils who have not attained the age of maturity an education in accordance with their religious convictions if their parents ask for it.

The public authorities have the duty to promote and to ensure, through teaching, education and dissemination of information, the respect of human rights, fundamental liberties and the duties of the citizens enumerated in this Constitution.

The public authorities have the duty to ensure the dissemination and the teaching of the Constitution, the *Universal Declaration of Human Rights*, the *African Charter on Human and Peoples' Rights*, as well as all the duly ratified regional and international conventions relating to human rights and to international humanitarian law.

The State is obliged to integrate the rights of the individual in all training programs of the armed forces, the police and the security services.

The law determines the conditions for the application of the present article.

#### Article 46

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

The rights of authors and intellectual property rights are guaranteed and protected by the law.

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

It protects the national cultural heritage and ensures its promotion.

#### Article 47

The right to health and to food security is guaranteed.

The law defines the fundamental principles and the rules of organization for public health and food security.

#### Article 48

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

#### Article 49

Aged and handicapped persons have the right to special measures of protection with regard to their physical, intellectual and moral needs.

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

An organic law determines the conditions for the application of this right.

### Chapter 3 Collective Rights

## Article 50

The State protects the rights and legitimate interests of Congolese nationals inside as well as outside the country.

Subject to reciprocity, foreign nationals who are legally present in the national territory enjoy the same rights and liberties as the Congolese, with the exception of the political rights.

They enjoy the protection granted to persons and their goods under the conditions prescribed by the treaties and the laws.

They are obliged to follow the laws and regulations of the Republic.

## Article 51

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

It also ensures the protection and promotion of vulnerable groups and of all minorities.

It ensures their development.

## Article 52

All Congolese have the right to peace and security on the national as well as on the international level.

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

## Article 53

All persons have the right to a healthy environment that is favorable to their development.

They have the duty to defend it.

The State ensures the protection of the environment and the health of the population.

## Article 54

The conditions for the construction of industrial plants, the storage, the manipulation, the burning and the removal of toxic, polluting or radioactive waste produced by industrial units or workshops established in the national territory are regulated by law.

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

The law defines the nature of the compensatory and reparatory measures as well as the conditions for their implementation.

#### Article 55

The transfer, importation, storage, spilling and disposal of toxic, polluting or radioactive waste or of any other dangerous product in the internal waters or maritime spaces under national jurisdiction, or their release into the airspace, whether they hail from abroad or not, constitute a crime punishable by law.

#### Article 56

Any action, agreement, convention, arrangement or other act which has the consequence of depriving the nation, individuals or corporations of all or part of their means of subsistence drawn from their natural resources or wealth, is qualified, without prejudice to the international provisions on economic crimes, as the crime of looting punishable by law.

#### Article 57

The acts referred to in the preceding article as well as the attempt thereof, whatever their conditions, are punishable as offenses of high treason if they are committed by a person invested with public authority.

#### Article 58

All the Congolese have the right to enjoy national wealth.

The State has the duty to redistribute the wealth equitably and to safeguard the right to development.

#### Article 59

All Congolese have the right to enjoy the common heritage of mankind. The State has the duty to facilitate enjoyment thereof.

#### Article 60

The respect of human rights and fundamental liberties guaranteed by the Constitution is incumbent on the public authorities and all persons.

#### Article 61

In no case, not even when the state of siege or the state of emergency has been proclaimed in accordance with Articles 87 and 88 of this Constitution, is a derogation admissible from the following rights and fundamental principles:

- The right to life;
- The prohibition of torture and of cruel, inhumane or degrading punishment or treatment;
- The prohibition of slavery and servitude;
- The principle of legality of offenses and penalties;



- The right to defense and the right to a remedy;
- The prohibition of imprisonment for debt;
- The freedom of thought, of conscience and religion.

## Chapter 4 The Duties of the Citizen

### Article 62

There is no presumption of ignorance of the law.

All persons are obliged 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.

A compulsory military service may be established under the conditions prescribed by law.

All national, provincial, local and customary authorities have the duty to safeguard the unity of the Republic and the integrity of its territory, subject to punishment for 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 constitutes an offense against the nation and the State, an offense which is not subject to the statute of limitations. It is punished in accordance with the law.

### Article 65

All Congolese have the duty to fulfill their obligations to the State faithfully. They are also obliged to pay their taxes and duties.

### Article 66

All Congolese are obliged to respect and treat their fellow citizens without any discrimination and to maintain relations with them that facilitate the safeguarding, the promotion, and the strengthening of national unity, mutual respect and tolerance.

In addition, they have the duty to preserve and reinforce national solidarity, especially when it is under threat.

### Article 67

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

### TITLE III

## THE ORGANIZATION AND THE EXERCISE OF POWER

### Chapter 1

#### The Institutions of the Republic

#### Article 68

The institutions of the Republic are as follows:

- The President of the Republic;
- The Parliament;
- The Government;
- The Courts and Tribunals.

### Section 1

#### Executive Power

### Subsection 1

#### 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 national unity.

He ensures the respect of the Constitution.

He ensures, through his arbitration, the proper functioning of the public authorities and institutions as well as the continuity of the State. He is the guarantor of national independence, territorial integrity, national sovereignty and the observance of international treaties and agreements.

#### Article 70

The President of the Republic is elected by direct universal suffrage for a term of five years which is renewable only once.

At the end of his term, the President stays in office until the President-Elect effectively assumes his functions.

#### Article 71

The President of the Republic is elected by an absolute majority of the votes cast. If such a majority is not obtained on the first ballot, a second ballot takes place within a period of fifteen days.

Only the two candidates who received the highest number of votes cast in the first ballot may present themselves in the second ballot.

In the case of death, incapacitation or withdrawal of either of the two candidates, the remaining candidates present themselves in the order which corresponds to the results of the first ballot.

The candidate who obtains the highest number of votes is declared elected on the second ballot.

#### Article 72

A person may not stand as a candidate in the presidential elections, if they do not meet the following requirements:

- possess the Congolese nationality of origin;
- be at least thirty years of age;
- enjoy all civil and political rights;
- not be subject to one of the exclusions provided for by the electoral law.

#### Article 73

The ballot for the election of the President of the Republic is scheduled by the National Elections Commission ninety days before the end of term of the incumbent President.

#### Article 74

The President–Elect assumes his functions within ten days following the proclamation of the final results of the presidential election.

Before he begins his functions, the President of the Republic takes the following oath before the Constitutional Court (*Cour Constitutionnelle*):

“I, \_\_\_\_\_, elected President of the Democratic Republic of the Congo, solemnly swear before the Congolese nation:

- to observe and defend the Constitution and the laws of the Republic;
- to maintain the independence and integrity of the territories;
- to safeguard national unity;
- to be guided only by the common interest and the respect of the rights of the individual;

- to devote all my strength to the promotion of the general good and of peace;
- to loyally fulfill, as a faithful servant of the people, the high duties that have been entrusted to me.”

#### Article 75

In the case of a vacancy, as a result of death, resignation or any other cause of permanent incapacitation, the functions of the President of the Republic, with the exception of those mentioned in Articles 78, 81 and 82, are temporarily discharged by the President of the Senate.

#### Article 76

The vacancy of the Presidency is declared by the Constitutional Court upon request by the Government.

The interim President of the Republic oversees the organization of the election of the new President of the Republic under the conditions and within the time periods provided for by the Constitution.

In the case of a vacancy or when the incapacitation is declared permanent by the Constitutional Court, the election of the new President of the Republic takes place on the announcement of the Independent National Electoral Commission, sixty days at the earliest and ninety days at the latest after the vacancy occurred or the incapacitation was declared permanent.

In the case of *force majeure*, this delay may be extended by the Constitutional Court on request by the Independent National Electoral Commission to one hundred and twenty days (125) at the maximum.

The President–Elect begins a new term.

#### Article 77

The President of the Republic addresses messages to the Nation.

He communicates with the chambers of Parliament through messages which he delivers or which are delivered in his name and which do not give rise to any debate.

Once a year, he delivers a speech on the state of the Nation before the National Assembly and the Senate, jointly meeting as Congress.

#### Article 78

The President of the Republic appoints the Prime Minister from the ranks of the parliamentary majority after consultation of the latter. He terminates the functions of the Prime Minister upon presentation by the latter of the resignation of the Government.

If such a majority does not exist, the President may entrust an exploratory mission to a person with a view to identifying a coalition.

The exploratory mission is limited to thirty days, renewable once.

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

#### Article 79

The President of the Republic convenes and chairs the Council of Ministers. In the case of his incapacitation, he delegates this power to the Prime Minister.

The President of the Republic promulgates the laws under the conditions defined in this Constitution.

He decides by way of ordinance.

The ordinances of the President of the Republic, other than those referred to 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 with their powers, within a 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, suspends and if necessary, dismisses, upon a proposal by the Government after deliberation by the Council of Ministers:

- the ambassadors and special envoys;
- the general officers and higher ranks of the armed forces and the national police, after hearing the High Defense Council;
- the General Chief of Staff, the Chiefs of Staff and the commanders of the main branches of the armed forces, after hearing the High Defense Council;
- the high-ranking civil servants;
- the persons in charge of the public services and establishments;
- the representatives of the State in the public companies and entities, with the exception of auditors.

The ordinances of the President of the Republic issued on these matters are countersigned by the Prime Minister.

## Article 82

The President of the Republic appoints, suspends and, if necessary, dismisses, by ordinance, the judges and public prosecutors upon proposal by the High 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 Commander-in-Chief of the Armed Forces.

He chairs the High Defense Council.

## Article 84

The President of the Republic awards the grades in the national orders and decorations, in conformity with the law.

## Article 85

When grave circumstances constitute a present threat to the independence or the integrity of the national territory or when they provoke the disruption of the proper functioning of the institutions, the President of the Republic proclaims a state of emergency 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 of the measures taken in a message.

The details of the implementation of the state of emergency and the state of siege are regulated by law.

## Article 86

The President of the Republic declares war by an ordinance which has been deliberated on by the Council of Ministers after having heard the High Council for Defense and after approval of the measure by the National Assembly and the Senate in conformity with Article 144 of this Constitution.

## Article 87

The President of the Republic exercises the right to pardon.

He may delay, commute or reduce sentences.

## Article 88

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

Foreign ambassadors and special envoys are accredited to him.

## Article 89

The allowances and the civil list (*liste civile*) of the President of the Republic are regulated in the Budget Law.

### Subsection 2

#### The Government

## Article 90

The Government consists of the Prime Minister, Ministers, Deputy Ministers and, if necessary, Deputy Prime Ministers, Ministers of State and Delegated Ministers.

It is directed by the Prime Minister, the head of the Government. In the case of his incapacitation, his interim [functions] are assumed by the most senior member of the Government.

The composition of the Government takes into account national representation.

Before assuming his functions, the Prime Minister presents the program of the Government to the National Assembly.

Once this program has been approved, by absolute majority of the members of the National Assembly, the latter invests the Government with its powers.

## Article 91

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

The Government directs the policy of the Nation.

Defense, security and foreign affairs constitute areas of cooperation between the President of the Republic and the Government.

The Government has at its disposal the public administration, the Armed Forces, the National Police and the security services.

The Government is responsible to the National Assembly in the terms provided for in Articles 90 and 100.

An ordinance deliberated by the Council of Ministers determines the organization and functioning of the Government and the details of the cooperation between the President of the Republic and the Government as well as between the members of the Government.

## Article 92

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

He decides by way of decree.

He appoints, by a decree which has been deliberated by the Council of Ministers, civil and military offices other than those conferred by the President of the Republic.

The measures of the Prime Minister are countersigned, if necessary, 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 program of the Government in his ministry, under the direction and coordination of the Prime Minister.

He decides by way of ministerial order (*arrêté*).

#### Article 94

The Deputy Ministers exercise, under the authority of the Ministers to whom they are assigned, the competences which are entrusted to them by the ordinance on the organization and functioning of the Government. They assume the interim [functions] of their Ministers in the case of absence or incapacity.

#### Article 95

The remuneration of the Ministers are fixed by the Budget Law.

The Prime Minister additionally benefits from an endowment.

#### Subsection 3

The Common Provisions for the President of the Republic and 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 office 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 elective office, any public, civil or military employment and any professional activity, with the exception of agricultural, manual, cultural, educational and scientific activities.



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

#### Article 98

During their terms, the President of the Republic and the members of the Government may not by themselves or through a third person purchase, acquire in any other manner or lease an asset which belongs to the domain of the State, the provinces or the decentralized entities.

They may not be a party, either directly nor indirectly, to public contracts for the benefit of administrations or institutions in which the central authority, the provinces or the decentralized administrative entities have an interest.

#### Article 99

Before their accession to office and on the expiration thereof, the President of the Republic and the members of Government are obliged to submit to the Constitutional Court a written declaration of their family fortune, listing their movable assets, including company shares and interests, obligations, other assets, bank accounts, their immovable assets, including undeveloped lands, woods, plantations and agricultural lands, mines and other immovable property, by indicating the relevant title.

The family fortune includes the property of the spouse in accordance with the relevant rules on matrimonial property, of the children who have not yet reached maturity and of the children, even those who have already attained maturity, for which the couple is responsible.

The Constitutional Court transmits this declaration to the fiscal administration.

Lacking such declaration, within a delay of thirty days, the relevant person is deemed to have resigned from office.

In case of a lack of declaration, of a fraudulent declaration or of unjustified enrichment, the matter is referred within thirty days from the expiry of the functions to the Constitutional Court or the Court of Cassation (*Cour de Cassation*), as the case may be.

### Section 2 Legislative Power

#### Article 100

The Legislative power is exercised by a Parliament consisting of two chambers: the National Assembly (*l'Assemblée Nationale*) and the Senate (*Sénat*).

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

Each Chamber enjoys administrative and financial autonomy and has its own allocation.

#### Subsection 1 The National Assembly

## Article 101

The members of the National Assembly are called National Deputies (*Député National*). They are elected by universal, direct and secret suffrage.

The candidates in the parliamentary elections are presented by political parties and by political groups. They may also present themselves as independents.

Every National Deputy is elected together with two proxies (*suppléants*).

The National Deputy represents the Nation.

Any binding instruction (*mandat impératif*) is void.

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

## Article 102

A person who meets the following requirements may stand as a candidate in the parliamentary elections:

- be Congolese;
- be 25 years or older;
- enjoy all civil and political rights;
- not be subject to one of the exclusions provided for by the electoral law.

## Article 103

The National Deputy is elected for a term of five years. He may be re-elected.

The term of office of the National deputy begins with the verification of his powers by the National Assembly and ends with the installation of the new Assembly.

## Subsection 2

### The Senate

## Article 104

The members of the Senate are called Senators.

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

Any binding instruction (*mandat impératif*) is void.

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

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

Each Senator is elected together with two proxies (*suppléants*).

The former elected Presidents of the Republic are by law Senators for life.

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

#### Article 105

The Senator is elected for a term of five years. He may be re-elected.

The mandate of the Senator begins with the verification of his powers by the Senate and ends with the installation of the new Senate.

#### Article 106

No one may stand as a candidate in the Senate elections if they are unable to meet the following requirements:

- be Congolese;
- be 30 years or older;
- enjoy all civil and political rights;
- not be subject to one of the exclusions provided for by the electoral law.

#### Subsection 3

##### Immunities and Incompatibilities

#### Article 107

No member of Parliament may be prosecuted, searched, arrested, detained or judged for opinions or votes delivered in the exercise of his functions.

Except in cases of *flagrante delicto*, a member of Parliament may be prosecuted or arrested during sessions only with the authorization of the National Assembly or the Senate, as the case may be.

When not in session, a member of Parliament may only be arrested with the authorization of the Bureau of the National Assembly or the Bureau of the Senate for the Senators, except in cases of *flagrante delicto*, of previously authorized prosecution or of final sentence.

The detention or prosecution of a member of Parliament is suspended if the Chamber of which he is a member so requires. The suspension may not last longer than the session during which it takes place.

#### Article 108

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

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

- a) Government member;
- b) member of a democracy-supporting institution;
- c) member of the Armed Forces, of the National Police and the security services;
- d) judge or prosecutor;
- e) career public servant;
- f) political-administrative leadership positions in the territorial administration, with the exception of the chiefs of the local chiefdoms and groups;
- g) active public representative;
- h) member in the cabinets of the President of the Republic, the Prime Minister, the President of the National Assembly, the President of the Senate, Government members, and generally of a political or administrative authority of the State, employed in a public firm or a mixed company;
- i) any other elective mandate.

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

#### Subsection 4

#### The Rights of National Deputies and Senators

##### Article 109

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

They are entitled to an equitable indemnity which ensures their independence and their dignity. It is provided for in the Budget Law.

They are entitled to a final indemnity which equals six months of allowances.

The details of the implementation of the preceding paragraph as well as the other rights of the members of Parliament are regulated by the internal regulations of each Chamber.

#### Subsection 5

#### The Termination of the Mandate of National Deputy or Senator

##### Article 110

The mandate of Deputy or Senator ends with:

- a) the expiry of the legislature;
- b) his death;
- c) his resignation;
- d) his definitive incapacitation;
- e) his permanent incapacity;
- f) his non-justified and non-authorized absence from more than a quarter of the meetings of a session;
- g) his exclusion stipulated by the electoral law;
- h) the acceptance of a function which is incompatible with the mandate of Deputy or Senator;
- i) the final sentencing to a prison sentence (*peine de servitude pénale principale*) for a deliberate offense.

Any cause of ineligibility, which by the competent judicial authority is deemed to have existed on election day, results in the loss of the mandate of the National Deputy or Senator.

In this case, he is replaced by his first proxy.

Each Deputy or Senator who deliberately leaves his party during the legislative term is deemed to have renounced his parliamentary mandate which he obtained for said party.

#### Subsection 6

#### The Operation of the National Assembly and the Senate

#### Article 111

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

- a) a president;
- b) a first deputy president;
- c) a second deputy president;
- d) a reporting member;
- e) a deputy reporting member;
- f) a financial expert;

g) a deputy financial expert.

The Presidents of the two Chambers must be Congolese nationals of origin. The members of the Bureau are elected under the conditions established by the internal regulations of the respective chamber.

#### Article 112

Each chamber of Parliament adopts its own internal regulations.

The internal regulations determine in particular:

- a) the term and the rules of operation of the Bureau, the powers and the prerogatives of its President as well as of the other members of the Bureau;
- b) the number, the manner of designation, the composition, the role and the competence of the permanent committees as well as the establishment and the functioning of special and temporary committees;
- c) the organization of the administrative services directed by a Secretary General of the Public Administration of each Chamber;
- d) the disciplinary regime of the Deputies and Senators;
- e) the different voting procedures, with the exception of those expressly provided for in this Constitution.

Before their implementation, the internal regulations are obligatorily transmitted by the President of the Chamber concerned to the Constitutional Court which rules within a period of fifteen days on their conformity with the Constitution. After this period has lapsed, the internal regulations are deemed to be in accordance with the Constitution.

The provisions which have been declared incompatible may not be implemented.

#### Article 113

In addition to the permanent and special committees, the two Chambers may set up one or several joint committees with equal representation of both Chambers in order to reconcile their views if they diverge on a point on which they must adopt the same decision in identical terms.

If the disagreement persists, the National Assembly takes the final decision.

#### Article 114

Each Chamber of Parliament meets by law in extraordinary session on the fifteenth day following the proclamation of the results of the parliamentary elections by the Independent National Electoral Commission in order to:

- a) establish the provisional Bureau directed by the most senior member, assisted by two younger members;
- b) to verify the powers;
- c) to elect and establish the permanent Bureau;
- d) to draft and to adopt the internal regulations.

The opening session is chaired by the Secretary General of the Administration of both Chambers.

During this session, the two Chambers meet in order to draft and adopt the internal regulations of Congress.

The extraordinary session ends once its agenda has been dealt with.

#### Article 115

The National Assembly and the Senate hold by law each year two ordinary sessions:

- a) the first starts on March 15 and closes on June 15;
- b) the second starts on September 15 and closes on December 15.

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

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

#### Article 116

Each Chamber of Parliament may be convened on a specific agenda for an extraordinary session by its President, upon request either of its Bureau, or of half of its members, or of the President of the Republic, or of the Government.

The closing takes place after the Chamber has dealt with the agenda for which it had been convened and at the latest, thirty days after the beginning of the session.

#### Article 117

The inclusion, as a matter of priority, of a Government bill, a draft law or a general policy declaration in the agenda of each of the Chambers occurs by law if the Government, after deliberation by the Council of Ministers, so requests.

#### Article 118

The deliberations of the National Assembly and the Senate are only valid if the absolute majority of its members are participating.

The meetings of the National Assembly and the Senate are public, unless it is decided to hold a closed meeting.

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

#### Article 119

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

- a) the procedure of constitutional revision in conformity with Articles 218 to 220 of this Constitution;
- b) the authorization of the proclamation of the state of emergency or the state of siege and the declaration of war in accordance with Articles 85 and 86 of this Constitution;
- c) the hearing of the speech of the President of the Republic on the state of the Nation in conformity with Article 77 of this Constitution;
- d) 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 as Congress, the Bureau is that of the National Assembly, and the presidency is assumed on a rotating basis by the President of the National Assembly and the President of the Senate.

Congress adopts its own internal regulations.

Before its implementation, the internal regulations are transmitted by the President of Congress to the Constitutional Court which rules within fifteen days on the conformity of these regulations with this Constitution.

After this period has lapsed, the internal regulations are deemed to be in accordance with the Constitution.

The provisions which have been declared incompatible may not be implemented.

#### Article 121

The deliberations of either Chamber or of Congress are only valid if the absolute majority of its members are assembled. Subject to the other provisions of the Constitution, every resolution and every decision is taken in conformity with the internal regulations of each Chamber or of Congress.

The votes are cast either by roll call and shouting, by raising the hand, by sitting and standing, by secret paper ballot or by electronic voting. On the whole text of a law, the vote takes place by roll call and shouting. Votes may also be cast by a technical device providing better guarantees.



Subject to the provisions of the Constitution, each Chamber or Congress may decide secret voting for the adoption of a specific resolution.

However, in the case of deliberations about individuals, the vote takes place by secret ballot.

### Section 3

#### The Relations Between the Executive Power and the Legislative Power

#### Article 122

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

- a) the rights of citizens and the fundamental guarantees given to the citizens for the exercise of public liberties;
- b) the electoral regime;
- c) public finances;
- d) the requirements imposed by the national defense on the persons and the property of the citizens;
- e) nationality, civil status and capacity of individuals, matrimonial regimes, inheritance and donations;
- f) the definition of the offenses and the penalties which they carry, criminal procedure, the organization and the operation of the judiciary, the establishment of new jurisdictions, the status of the judges and prosecutors, the legal regime of the High Council of the Judiciary;
- g) the organization of the Bar, the cooperation in law enforcement and the representation before the courts;
- h) trade, the regime of ownership rights, and civil and commercial obligations;
- i) amnesty and extradition;
- j) the basis, rate and the collection methods of taxes of all kinds, the rules governing the issuance of currency;
- k) the loans and financial obligations of the State;
- l) the status of the career civil servants of the State, the personnel in higher and university education and in scientific research;
- m) the Armed Forces, the Police and the security services;
- n) labor law and the law of social security;

o) the general organization of defense and of the National Police, the recruiting methods for the members of the Armed Forces and the National Police, the advancement, rights and obligations of the military and police personnel.

#### Article 123

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

- a) the free administration of the provinces and the decentralized territorial entities, of their competences and resources;
- b) the creation of public companies, establishments and bodies;
- c) the regimes pertaining to real estate, mining, forestry and immovable property;
- d) mutual insurance systems and savings;
- e) education and health;
- f) the prison system;
- g) pluralism of political organizations and trade unions;
- h) the right to strike;
- i) the organization of the media;
- j) scientific and technological research;
- k) cooperatives;
- l) culture and the arts;
- m) sports and leisure;
- n) agriculture, cattle breeding, fishing and aquaculture;
- o) the protection of the environment and tourism;
- p) the protection of vulnerable groups.

#### Article 124

The statutory laws to which the Constitution confers the character of organic laws are adopted and amended by the absolute majority of members of each Chamber in the following conditions:

- a) the legislative proposal is submitted to the deliberation and the vote of the first Chamber only after a period of fifteen days has expired following its transmission to the Government;

b) the procedure of Article 132 is applicable. However, in the absence of an agreement between the two Chambers, the law may only be adopted by the National Assembly in the final reading with the absolute majority of its members;

c) the organic laws may only be promulgated after the declaration of their conformity with the Constitution by the Constitutional Court within fifteen days after they have obligatorily been referred to the latter by the President of the Republic.

#### Article 125

When a Government bill or a legislative proposal has been declared urgent by the Government, it is examined as a matter of priority in each Chamber by the competent permanent commission following the procedure prescribed in the internal regulations of each.

The normal procedure has to be applied to the legislative proposals and Government bills containing an amendment to the Constitution or amending organic laws as well as to the drafts of the authorizing laws provided for in Article 129.

#### Article 126

The Finance laws determine the resources and the expenditure of the State.

The National Assembly and the Senate adopt the finance bills under the conditions defined by the organic law referred to in Article 124 of the Constitution.

The annual finance bill, which includes in particular the budget, is transmitted by the Government to the Bureau of Parliament by the fifteenth of September of each year, at the latest.

The creation or transformation of public sector jobs may not take place outside the provisions of the finance laws.

If the finance bill, which has been submitted within the constitutional deadlines, is not adopted before the start of the new fiscal year, it is enacted by the President of the Republic, upon a proposal by the Government after deliberation by the Council of Ministers, taking into account the amendments adopted by each Chamber.

If the finance bill has not been submitted in time for promulgation before the start of the new fiscal year, the Government shall request the National Assembly and the Senate for the opening of provisional credit lines.

If the Government has not submitted its draft budget fifteen days before the end of the budgetary session, it is deemed to have resigned.

In case the National Assembly and the Senate do not decide within fifteen days on the opening of provisional credit lines, the provisions of the draft law providing for these credits are enacted by the President of the Republic, upon the proposal by the Government after deliberation by the Council of Ministers.

If, taking into account the procedure provided for above, the annual finance law could not be enacted on the first day of February of the fiscal year, the President of the Republic, upon the proposal by the Government after deliberation by the Council of Ministers, orders the execution of the finance bill, taking into account the amendments voted by each Chamber.

#### Article 127

Amendments to the finance bill are not admissible if their adoption would result either in the reduction of revenues or in the increase of expenditure, unless they are accompanied by proposals for compensation.

#### Article 128

Matters other than those that fall within the domain of the statutory law have a regulatory character.

Texts adopted in the form of a statutory law on these matters may be modified by decree if the Constitutional Court, upon request by the Government, has declared that they have a regulatory character in accordance with the preceding paragraph.

#### Article 129

The Government may, for the urgent execution of its action program, ask the National Assembly or the Senate for authorization, for a limited period, to take measures by “ordinance-laws” (*ordonnances-loi*) on specific matters that fall normally within the domain of statutory law.

These ordinance-laws are deliberated on by the Council of Ministers. They come into force upon publication and lapse if the draft law for their ratification is not presented to Parliament before the latest date set by the enabling law.

If Parliament does not ratify these ordinance-laws at the end of the period referred to in the first paragraph of this article, they automatically cease to produce legal effects.

The ordinance-laws deliberated on by the Council of Ministers and ratified may not be amended in their provisions except by statutory law.

The ordinance-laws cease automatically to produce any legal effects in case of the rejection of the law of ratification.

#### Article 130

The right to initiate legislation belongs concurrently to the Government, each deputy and each senator.

The draft laws adopted by the Government in the Council of Ministers are submitted to the Bureau of one of the Chambers. However, in the case of the finance law, the bill is compulsorily submitted to the Bureau of the National Assembly, within the time period provided for in Article 126.

The legislative proposals (*propositions de loi*) by members of Parliament are, prior to deliberation and adoption, notified for information to the Government which addresses its observations to the Bureau of one of the Chambers within fifteen days of their transmission.

#### Article 131

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

If they are requested to do so, the members of the Government are obliged to be present at the meetings of the National Assembly and the Senate, to take the floor and to provide the members of Parliament with all the explanations on their activities on which they are asked.

#### Article 132

The discussion of Government bills focuses in the first Chamber to which they are submitted, based on the text transmitted by the Government. A Chamber to which a text is submitted which has already been voted in the other Chamber deliberates only on the text submitted.

#### Article 133

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

#### Article 134

The legislative proposals and the amendments formulated by the members of the National Assembly and the Senate are not admissible if their adoption would result either in a reduction of public resources or in the creation of new or increase of existing public obligations, unless they are accompanied by proposals containing the corresponding revenues or savings.

#### Article 135

Each Government bill and legislative proposal is examined successively by the two Chambers with the view to adopting an identical text.

If, as a result of a disagreement between the two Chambers, a bill or a legislative proposal could not be adopted after one reading in each Chamber, a joint committee with equal representation from both Chambers (*commission mixte paritaire*), charged to propose a text for the provisions which are still under discussion, is set up by the two Bureaus.

The text drafted by the joint committee is submitted for adoption to both Chambers.

If the joint committee does not succeed in adopting a common text or if this text is not adopted under the conditions provided for in the preceding paragraph, the National Assembly takes the final decision. In that event, the National Assembly may reconsider either the text drafted by the joint committee, or the last text voted by itself, as modified, as the case may be, by any amendment or amendments adopted by the Senate.

#### Article 136

Within ten days following its adoption the law is transmitted to the President of the Republic for its promulgation. The Prime Minister receives a verified copy.

#### Article 137

Within fifteen days from the date of transmission, the President of the Republic may ask the National Assembly or the Senate for a new deliberation of the law or of certain articles. This new deliberation may not be refused.

The text submitted for second deliberation is adopted by the National Assembly and the Senate either in the original form or after amendment by the absolute majority of their members.

#### Article 138

Without prejudice to the other provisions of this Constitution, the means of information and control of the National Assembly and the Senate with regard to the Government, the public companies, the public establishments and services are the following:

- a) oral or written questions with or without discussion followed by a vote;
- b) questions on current events;
- c) interpellation;
- d) investigation committee;
- e) hearings before the commissions.

These means of control are used under the conditions prescribed by the internal regulations of each Chamber and give rise, as the case may be, to a motion of defiance or censure in accordance with Articles 146 and 147 of this Constitution.

#### Article 139

Statutes may be referred to the Constitutional Court in order to obtain a declaration of non-conformity with the Constitution by the following authorities:

- a) the President of the Republic, within fifteen days following the transmission to him of the law finally adopted;
- b) the Government, within fifteen days following the transmission to it of the law finally adopted;
- c) a number of Deputies and Senators equal to at least a tenth of the members of each Chamber, within a full fifteen days following its final adoption.

The statute may only be promulgated if it has been declared to be in accordance with the Constitution by the Constitutional Court, which rules within fifteen days after the matter has

been referred to it. This deadline having lapsed, the statute is considered to be in conformity with the Constitution.

#### Article 140

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

In the absence of the promulgation of the law by the President of the Republic within the constitutional time periods, the promulgation occurs automatically.

#### Article 141

The statutes bear the imprint of the seal of the State and are published in the *Official Journal* (*Journal Officiel*).

#### Article 142

The statute enters into force thirty days after its publication in the *Official Journal* unless it provides otherwise.

In all cases the Government ensures the dissemination in French and in each of the four national languages [of the statute] within a period of sixty days following the promulgation thereof.

#### Article 143

In accordance with the provisions of Article 86 of the Constitution, the President of the Republic declares war upon the decision of the Council of Ministers after hearing the High Council for Defense and after authorization by the two Chambers.

He informs the Nation of the declaration in a message.

The rights and duties of the citizens in times of war or of invasion or attack of the national territory by foreign forces are regulated by law.

#### Article 144

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

The National Assembly and the Senate convene as of right. If they are not in session, an extraordinary session is convened to this effect in conformity with Article 114 of this Constitution.

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

The ordinance proclaiming the state of emergency or state of siege automatically ceases to produce its effects after the expiry of the deadline referred to in the third paragraph of the

present article, unless the National Assembly and the Senate, as requested by the President of the Republic upon the decision of the Council of Ministers, have authorized its extension for successive periods of fifteen days.

The National Assembly and the Senate may by way of statute end at any moment the state of emergency or siege.

#### Article 145

In the case of a state of emergency or state of siege, the President of the Republic takes, by ordinances which have been deliberated by the Council of Ministers, the measures necessary to respond to the situation.

Immediately after they have been signed, these ordinances are submitted to the Constitutional Court which suspends all its other work and declares whether or not they derogate from this Constitution.

#### Article 146

The Prime Minister may, after deliberation by the Council of Ministers, make the Government program, a general policy declaration or the vote of a text a matter of the Government's responsibility before the National Assembly. The National Assembly may challenge the responsibility of the Government or of a member of the Government by voting a motion of censure or defiance. The motion of censure against the Government is admissible only if it is signed by a quarter of the members of the National Assembly. The motion of defiance against a member of the Government is admissible 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 introduction of the motion. Only the votes favorable to the motion of censure or defiance, which can only be adopted by an absolute majority of the members of the National Assembly, are counted. If the motion of censure or defiance is rejected, those who have signed it may not bring another one during the same session.

The program, the general policy declaration or the text referred to in the first paragraph is considered to have been adopted unless a motion of censure is adopted under the conditions provided for in paragraphs 2 and 3 of the present article.

The Prime Minister has the ability to ask the Senate for the approval of a general policy declaration.

#### Article 147

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

If a motion of defiance against a Government member is adopted, the latter is deemed to have resigned.



## Article 148

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

No dissolution may take place in the year which follows the election nor in times of a state of emergency, a state of siege or war, nor during the period when the Republic is lead by an interim President.

Following the dissolution of the National Assembly, the Independent National Electoral Commission convenes the voters for the election of a new Assembly within a period of sixty days following the date of publication of the dissolution ordinance.

The closure of the ordinary and extraordinary sessions is delayed as of right in order to permit, if necessary, the applications of the provisions of Article 144.

## Section 4 Judicial Power

### Subsection 1 General Provisions

## Article 149

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

It is entrusted to the following courts and tribunals: the Constitutional Court (*Cour Constitutionnelle*), the Court of Cassation (*Cour de Cassation*), the Council of State (*Conseil d'Etat*), the Military High Court (*Haute Cour Militaire*), the civil and military courts and tribunals as well as the prosecutor offices attached to these jurisdictions.

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

The sentences and judgments as well as the ordinances of the courts and tribunals are executed in the name of the President of the Republic.

No extraordinary or special tribunals may be created, no matter what the name is.

The law may establish specialized jurisdictions.

The judiciary has a budget drafted by the High Council of the Judiciary and transmitted to the Government in order to be included in the general budget of the State. The First President of the Court of Cassation is its manager. He is assisted by the permanent Secretariat of the High Council of the Judiciary (*Conseil Supérieur de la Magistrature*).

## Article 150

The judiciary is the guarantor of the individual liberties and fundamental rights of the citizens.

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

An organic law determines the status of the judges and prosecutors.

Judges may not be removed from office. They can only be transferred following a new appointment, their own request or through well-founded rotation decided by the High Council of the Judiciary.

#### Article 151

The executive power may neither give instructions to the judges in the exercise of their jurisdiction, nor rule on controversies, nor obstruct the course of justice, nor oppose the execution of a judicial decision.

The legislative power may not rule on controversies of jurisdiction, nor modify a judicial decision, nor oppose its execution.

Each law whose objective is to manifestly provide a solution to a pending legal case is void and devoid of any effect.

#### Article 152

The High Council of the Judiciary is the managing authority of the judicial power.

The High Council of the Judiciary consists of:

- the President of the Constitutional Court;
- the Attorney General at the Constitutional Court;
- the First President of the Court of Cassation;
- the Attorney General at the Court of Cassation;
- the First President of the Council of State;
- the Attorney General at the Council of State;
- the First President of the Military High Court;
- the Auditor General at the Military High Court;
- the First Presidents of the Courts of Appeal;
- Attorneys General at the Courts of Appeal;
- First Presidents of the Administrative Courts of Appeal;
- Attorneys General at the Administrative Courts of Appeal;

- First Presidents of Military Courts;
- Higher Military Auditors;
- two judges of each Court of Appeal district, elected by the totality of judges and prosecutors of the district for a mandate of three years;
- two prosecutors of each Court of Appeal district, elected by the totality of judges and prosecutors of the district for a term of three years;
- a judge of each Military Court district;
- a prosecutor of each Military court district.

The Council drafts the proposals for appointment, promotion and dismissal of judges and prosecutors.

It exercises the disciplinary power over judges and prosecutors.

It gives its opinion on applications for a pardon.

An organic law determines the organization and the operation of the High Council of the Judiciary.

## Subsection 2 Courts with General Jurisdiction

### Article 153

A hierarchy of courts with general jurisdiction is established, consisting of the military and civil 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 hears the appeals brought against the final sentences and judgments of the civil and military courts and tribunals.

Under the conditions prescribed by the Constitution and the laws of the Republic, the Court of Cassation rules in the first and last instance on the offenses committed by:

- the members of the National Assembly and the Senate;
- Government members other than the Prime Minister;
- Members of the Constitutional Court;
- the judges of the Court of Cassation as well as the members of the Attorney General's office at that Court;
- the members of the Council of State and the members of the Attorney General's office at that Council;

- the members of the Audit Office (*Cour des Comptes*) and the members of the Attorney General's office at that Office;
- the first Presidents of the Courts of Appeal as well as the Attorneys General at these courts;
- the first Presidents of the Administrative Courts of Appeal and the Attorneys General at these courts;
- the Governors and Deputy Governors of the Province and the Provincial Ministers.
- the Presidents of the Provincial Assemblies.

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

The organization, operation and the competences of the courts with general jurisdiction are determined by organic law.

### Subsection 3 Administrative Jurisdictions

#### Article 154

A hierarchy of institutions with administrative jurisdiction is established, consisting of the Council of State and 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 hears as court of first and final instance, the applications for violation of the law brought against the measures, regulations and decisions of the central administrative authorities.

It hears the appeals against the decisions of the administrative Courts of Appeal.

It hears, in cases no other competent courts exist, the claims for compensation relating to the reparation of an exceptional material or moral damage resulting from a measure taken or ordered by the authorities of the Republic. It decides *ex aquo et bono*, taking into account all affected public and private interests.

The organization, the competences and the operation of the institutions with administrative jurisdiction are determined by organic law.

### Subsection 4 Military Jurisdictions

#### Article 156

The military jurisdictions rule on the offenses committed by the members of the Armed Forces and the National Police.

In times of war or when the state of emergency or siege has been proclaimed, the President of the Republic may suspend, by a decision deliberated by the Council of Ministers, in all or part of the territory of the Republic and for the period and the offenses which he determines, the repressive control exercised by the ordinary courts and tribunals in favor of that of the military jurisdictions. However, the right to appeal may not be suspended.

An organic law determines the rules on competence, organization and operation of the military jurisdictions.

## Section 5 The Constitutional Court

### Article 157

A Constitutional Court (*Cour Constitutionnelle*) is established.

### Article 158

The Constitutional Court consists of nine members appointed by the President of the Republic; he appoints three of them on his own initiative, three who have been designated by the Parliament assembled as Congress and three designated by the High Council of the Judiciary.

Two-thirds of the members of the Constitutional Court must be lawyers from the ranks of judges or prosecutors, from the Bar or from university education.

The non-renewable term of office of the members of the Constitutional Court is nine years.

A third of the membership of the Constitutional Court is renewed every three years. However, on the occasion of each renewal, one member of each group will be determined by the drawing of lots.

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

### Article 159

No one may be appointed as member of the Constitutional Court who

- a) is not Congolese;
- b) cannot show practical experience of fifteen years in the judicial or political sphere.

### Article 160

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

Organic laws prior to their promulgation and the internal regulations of the parliamentary Chambers and of Congress, of the Independent National Electoral Commission as well as of the High Council for Audiovisual Media, prior to their application, have to be submitted to the Constitutional Court which rules on their conformity with the Constitution.

For the same purpose of examining their constitutionality, statutes may be referred to the Constitutional Court prior to their promulgation by the President of the Republic, the Prime Minister, the President of the National Assembly, the President of the Senate or a tenth of the Deputies or Senators.

The Constitutional Court must decide within the period of one month. However, in cases of urgency, this delay is reduced to eight days at the request of the Government.

#### Article 161

The Constitutional Court examines the applications for interpretation of the Constitution upon request by the President of the Republic, the Government, the President of the Senate, the President of the National Assembly, a tenth of the members of each Parliamentary chamber, the provincial Governors and the Presidents of the Provincial Assemblies.

It settles disputes relating to the presidential and parliamentary elections as well as to referendums.

It examines conflicts of jurisdiction between the Executive Power and the Legislative Power as well as between the State and the Provinces.

It examines the appeals against the judgments of the Court of Cassation and the Council of State, but only insofar as they decide on the reference of the dispute to the general or the administrative jurisdiction. This appeal is only admissible if an objection of denial of jurisdiction has been raised by or before the Court of Cassation or the Council of State.

The details and the effects of the remedies referred to in the preceding paragraphs are determined by law.

#### Article 162

The Constitutional Court rules on the objection of unconstitutionality raised by or before a court.

Any individual may appeal to the Constitution Court for unconstitutionality of a statutory or regulatory measure.

In addition, he/she may appeal to the Constitutional Court by way of raising an objection of unconstitutionality in a matter affecting him/her before a court.

The former court suspends the proceedings and submits the matter to the Constitutional Court, by giving it preference over all its other work.

#### Article 163

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

#### Article 164

The Constitutional Court is the criminal court for the President of the Republic and the Prime Minister with regard to the offenses of high treason, contempt of Parliament, failings in matters of honor and integrity as well as insider crimes and all the other common law offenses committed in the exercise or on the occasion of the exercise of their functions. It is equally competent to try their co-authors and accomplices.

#### Article 165

Without prejudice to the other provisions of the Constitution, high treason is established if the President of the Republic has deliberately violated the Constitution or if he or the Prime Ministers are identified authors, co-authors or accomplices of grave and specific human rights violations, or of the transfer of a part of the national territory.

Failings in matters of honor and integrity are established particularly if the conduct of the President of the Republic or the Prime Minister is contrary to morality or if they are identified as authors, co-authors or accomplices of embezzlement of funds, corruption or unjustified enrichment.

An insider crime of the President of the Republic or the Prime Minister is established if they conduct commercial operations with regard to immovable assets or goods on which they possess privileged information that they use for their benefit before it is known by the public. The insider crime covers the purchase and the selling of shares based on information which would never be disclosed to the shareholders.

Contempt of Parliament is established if the Prime Minister does not provide any response to questions asked by either of the Parliamentary Chambers concerning the activities of the Government within a time period of thirty days.

#### Article 166

The decision to prosecute and the bringing of charges against the President of the Republic and the Prime Minister are voted by a two-thirds majority of the members of Parliament assembled as Congress in accordance with the procedure provided for by the internal regulations.

The decision to prosecute as well as the bringing of charges against members of the Government are voted by an absolute majority of the members of the National Assembly in accordance with the procedures provided for by the internal regulations.

The members of the Government against whom charges have been brought tender their resignation.

#### Article 167

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

With regard to the offenses committed outside the exercise of their functions, the prosecution of the President of the Republic and the Prime Minister is suspended until the end of their terms of office. During this period, the statute of limitations does not apply.

#### Article 168

The judgments of the Constitutional Court cannot be appealed and are enforceable immediately. They are binding and have to be observed by the public institutions, by all administrative, jurisdictional, civil and military authorities and by the individuals.

Any measure declared to be not in conformity with the Constitution is automatically void.

#### Article 169

The organization and operation of the Constitutional Court is determined by organic law.

### Section 6 Public Finances

#### Subsection 1 General Provisions

#### Article 170

The Congolese Franc is the currency unit of the Democratic Republic of the Congo. It extinguishes debt on the national territory.

#### Article 171

The finances of the central authority and of the provinces are separate.

#### Article 172

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

#### Article 173

The general account (*compte général*) of the Republic is submitted each year by the Audit Office to Parliament with its observations.

The general account of the Republic is fixed by law.

#### Article 174

Taxes can only be established by law.



The contribution to the public offices is a duty of every individual living in the Democratic Republic of the Congo.

Tax exemption or relief can only be established by law.

#### Article 175

The budget of the revenues and the expenditure of the State, specifically that of the central authority and the provinces, is established each year by law.

The percentage of national revenues allocated to the provinces is fixed at 40%. It is retained at the source (*retenue à la source*).

The law fixes the denominations of the other local revenues and the details of their distribution.

#### Subsection 2

##### The Central Bank

#### Article 176

The Central Bank of Congo is the money issuing authority of the Democratic Republic of the Congo.

To this effect, its mission includes:

- a) care for public funds;
- b) monetary safety and stability;
- c) definition and implementation of monetary policy;
- d) control of all banking activities;
- e) advising the Government in economic and financial matters.

In the fulfillment of these missions and tasks, the Central Bank of Congo is independent and enjoys autonomy in its management.

#### Article 177

The organization and operation of the Central Bank are determined by organic law.

#### Subsection 3

##### The Audit Office

#### Article 178

An Audit Office (*Cour de Comptes*) is established in the Democratic Republic of the Congo.

The Audit Office is subject to the authority of the National Assembly.

The members of the Audit Office are appointed, relieved of their functions and, if necessary, dismissed by the President of the Republic after hearing the National Assembly.

The members of the Audit Office must show a high qualification in financial, legal or administrative matters and a professional experience of at least ten years.

#### Article 179

The composition, organization and operation of the Audit Office are determined by organic law.

#### Article 180

The Audit Office controls the conditions established by law for the management of State finances, public goods as well as the accounts of the provinces, the decentralized territorial entities and the public bodies.

Each year, it publishes a report delivered to the President of the Republic, Parliament and Government.

The report is published in the *Official Journal*.

#### Subsection 4

The National Trust for Equal Development

#### Article 181

A National Trust for Equal Development (*Caisse Nationale de Péréquation*) is established. It possesses legal personality.

The National Trust for Equal Development has the mission to finance public investment projects and programs in order to ensure nationally solidarity and correct the uneven development among the provinces and among the other decentralized territorial entities.

It has a budget at its disposal which is financed by the Public Treasury at the rate of ten percent of all national revenues due to the State each year.

It is placed under the guardianship of the Government.

An organic law establishes its organization and operation.

#### Section 7

The National Police and the Armed Forces

#### Subsection 1

The National Police

#### Article 182

The National Police is charged with public security, the security of persons and goods, the maintenance and restoration of public order as well as the special protection of the high authorities.

#### Article 183

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

The National Police operates on the entire national territory in respect of 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 ministry competent for domestic matters.

#### Article 185

The numbers of staff at all levels [and] the commanding functions at all times in all circumstances must take into account objective criteria linked to physical aptitude, sufficient training and tested integrity as well as an equitable representation of the provinces.

#### Article 186

An organic law determines the organization and operation of the National Police.

#### Subsection 2

#### The Armed Forces

#### Article 187

The Armed Forces consist of the land forces, air forces, naval forces and their assistance services.

They have the mission to defend the integrity of the national territory and the borders. Under the conditions prescribed by law, they take part, in times of peace, in the economic, social and cultural development as well as the protection of persons and their goods.

#### Article 188

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

No one may, under sentence of high treason, abuse them for their own purposes.

They are apolitical and subject to civil authority.

#### Article 189

The numbers of personnel at all levels [and] the commanding functions at all times in all circumstances must take into account objective criteria linked to physical aptitude, sufficient training and tested integrity as well as an equitable representation of the provinces.

#### Article 190

No one may, under sentence of high treason, organize military groups, paramilitary or private militias, or entertain a youth army.

#### Article 191

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

#### Article 192

A High Council for Defense (*Conseil Supérieur de la Défense*) is established.

The High Council for Defense is chaired by the President of the Republic and, in the case of his absence or incapacitation, by the Prime Minister.

An organic law determines the organization, composition, competences and functioning of the High Council for Defense.

### Section 8

#### Public Administration

#### Article 193

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

It includes the civil service (*fonction publique*) and similar bodies and services.

#### Article 194

An organic law regulates the organization and operation of the public services of the central authority, the provinces and the decentralized territorial entities.

## TITLE IV

## THE PROVINCES

### Chapter 1

#### The Provincial Institutions

#### Article 195

The Provincial Institutions are:

a) the Provincial Assembly;

b) the Provincial Government.

#### Article 196

The provinces are organized in accordance with the principles listed in Article 3 of this Constitution.

The territorial subdivisions within the provinces are determined by organic law.

#### Article 197

The Provincial Assembly is the deliberative body of the province. It deliberates in the areas of competences reserved to the province and controls the Provincial Government as well as the provincial and local public services.

Its members are called Provincial Deputies.

They are elected by universal, direct and secret suffrage or co-opted for a renewable term of five years.

The number of the co-opted Provincial Deputies may not exceed a tenth of the members of the Provincial Assembly.

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

#### Article 198

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

The Governor and the Deputy Governor are elected for a term of five years, renewable once, by the Provincial Deputies from their ranks or from outside the Provincial Assembly. They are appointed by an ordinance of the President of the Republic.

The Provincial Ministers are designated by the Governor from the ranks or from outside 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 taking office, the Governor presents to the Provincial Assembly his government program.

After this program has been approved by an absolute majority of the members of the Provincial Assembly, the latter appoints the ministers.

The members of the Provincial Government may be collectively or individually relieved of their functions by the vote of a motion of censure or defiance 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.

#### Article 199

Two or more provinces may, by joint agreement, create a framework for the harmonization and coordination of their respective policies and manage jointly certain services concerning matters which fall within their competence.

#### Article 200

A conference of Provincial Governors is established.

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

The conference of Provincial Governors consists, in addition to the Provincial Governors, of the President of the Republic, the Prime Minister and the Minister of the Interior. Any other member of the Government may be invited thereto.

It is chaired by the President of the Republic.

It meets at least twice annually upon convocation of its President.

It takes place alternately in each province.

An organic law determines the details of organization and of operation.

### Chapter 2

#### The Distribution of Competences Between the Central Authority and the Provinces

#### Article 201

The distribution of competences between the Central Authority and the Provinces is determined by this Constitution.

The matters are either of the exclusive competence of the Central Authority or of the concurring competence of the Central Authority and the Provinces or of the exclusive competence of the Provinces.

#### Article 202

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

1. foreign affairs including diplomatic relations as well as international treaties and agreements;

2. the regulation of foreign trade;
3. nationality, status and the supervision of foreigners;
4. extradition, immigration, emigration and the issuance of passports and visa;
5. external security;
6. national defense;
7. the national police;
8. the national civil service;
9. the public finances of the Republic;
10. the establishment of income taxes, company taxes and personal taxes in conformity with Article 174;
11. the public debt of the Republic;
12. foreign loans for the needs of the Republic or the Provinces;
13. domestic loans for the needs of the Republic;
14. the currency, the issuance of currency and the debt extinguishing character of the currency;
15. weights, measures and computer science;
16. customs duties and importation and exportation licenses;
17. the regulation concerning bank and bank and stock exchange transactions;
18. exchange regulation;
19. literary, artistic and industrial property and patents;
20. mail and telecommunications, including telephones and telegraphs, broadcasting, television and satellites;
21. maritime and internal navigation, air routes, railways, roads and other ways of communication, natural and artificial, which connect two or more provinces or the territory of the Republic to a foreign territory or which a national law has declared to be of national interest although they are entirely situated on the territory of a province;
22. universities and other establishments of higher scientific, technical or professional education created or subsidized by the Central Government or the Provincial Governments and which a national law has declared to be of national interest;

23. the establishment of rules on education applicable to all territories of the Republic;

24. the acquisition of goods for the needs of the Republic, without prejudice to Article 34;

25. the elaboration of agricultural, forestry and energy programs of national interest and the coordination of provincial programs;

the offices of agricultural products and the assimilated bodies as well as the distribution of the management staff in accordance with the statute of the career civil servants of the public services of the State;

the energy, agricultural and forestry regimes with regard to hunting and fishing, the conservation of nature (flora and fauna), catching of animals, livestock breeding, food from animals and veterinary medicine;

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 powers;

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

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

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

31. statistics and census measures of national interest;

32. national planning;

33. scientific and technological research;

34. the national target plans concerning the development of basic infrastructure, in particular of ports, airports and railway stations;

35. support of war veterans and people with disabilities resulting from war;

36. legislation concerning in particular;

a) the code of commerce, including insurance business, the formation and admission of companies;

b) the penal code and the prison regime;

c) the code on the organization and competences of the judiciary and the judicial code;

d) legislation on the professions;



e) labor legislation including namely the laws governing the relations between employers and workers, the safety of workers, the rules relating to social security and, in particular, the rules relating to social insurance and involuntary unemployment;

f) economic legislation including the laws on mines, minerals and mineral oil, industry, energy sources and the conservation of natural resources;

g) legislation on the arts and trades;

h) medical legislation and the art of healing, preventive medicine, in particular private and public hygiene, protection of mother and child, legislation on the profession of pharmacist and trade in pharmaceutical products, on immigration and transit, international and bilateral sanitary regimes, legislation on hygiene in the workplace, the technical coordination of medical laboratories and the distribution of doctors;

i) the electoral law;

j) legislation on the production, rectification, importation, exportation and the selling of alcohol obtained by distillation;

k) legislation on the production, importation and exportation, and the selling of drinks with and without alcohol;

l) legislation on the production, importation and exportation and the transit of war equipment;

m) legislation on artificial insemination of human beings, the manipulation of genetic information and the transplantation of human organs and tissues;

n) legislation on refugees, expellees and displaced persons;

o) legislation on the admission to the medical professions and the other professions and activities.

## Article 203

Without prejudice to the other provisions of this Constitution, the following matters are subject to the concurring competence of the Central Authority and the Provinces:

1. the implementation of mechanisms for the promotion and protection of the human rights and fundamental liberties guaranteed in this Constitution;

2. civil and customary rights;

3. statistics and census;

4. domestic security;

5. the administration of courts and tribunals, custody and correction centers and prisons;

6. culture and sports life;

7. the establishment of taxes, including consumption duties (*droits d'accise et de consommation*), with the exception of the taxes referred to in Article 174;
8. the execution of measures relating to the supervision of foreigners;
9. scientific and technological research as well as scholarships for studying, perfecting education or encouraging research;
10. medical and philanthropic institutions, the employment of members of the medical and agricultural personnel with leadership functions;
11. the implementation of meteorology, geology, cartography and hydrology programs;
12. natural disasters;
13. press, radio, television, cinema industry;
14. civil protection;
15. tourism;
16. land and mining rights, environmental planning, regimes for waters and forests;
17. prevention of epidemics affecting human beings and animals of humans which threaten the community;
18. protection of the environment, of natural sites, landscapes and the conservation of sites;
19. the regulation concerning the energy, agriculture and forest sectors, livestock breeding, food from animals or plants;
20. the creation of establishments of primary, secondary, higher and university education;
21. road traffic, car circulation, the construction and maintenance of roads of national interest, the collection and distribution of tolls for the use of roads built by the Central Authority and/or the Province;
22. medical and philanthropic institutions;
23. the initiative of international economic, cultural, scientific and social cooperation projects, programs and agreements;
24. the production, transport, use and exploitation of energy;
25. the protection of vulnerable groups.

#### Article 204

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

1. environmental planning with regard to the Province;
2. interprovincial cooperation;
3. the provincial and local civil service;
4. the application of the rules on civil status;
5. the public finances of the Province;
6. the public debt of the Province;
7. domestic loans for the needs of the Provinces;
8. the issuance and keeping of titles to immovable property in observance of the national legislation;
9. the organization of the small border trade;
10. the organization and operation of provincial public services, establishments and public companies in observance of the national legislation;
11. public works and contracts of provincial and local interest;
12. the acquisition of goods for the needs of the Province;
13. maternal, primary, secondary, professional and special education as well as programs to fight the illiteracy of citizens in conformity with the rules established by the Central Authority;
14. the establishment of fines and prison penalties in order to ensure the respect for locally enacted rules in conformity with national legislation;
15. internal communications in the Provinces;
16. provincial and local taxes and duties, in particular property tax, local income and motor vehicle tax;
17. the establishment of provincial minimum wages in accordance with national legislation;
18. the assignment of the medical personnel in accordance with the statute on the career civil servants of the State public services, the elaboration of programs for sanitation and the fight against epidemic and endemic diseases in conformity 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, philanthropic and missionary services, medical laboratories and pharmaceutical services, the organization and promotion of primary health care measures;
19. the elaboration of mining, mineralogy, industry and energy programs of provincial interest and their execution in accordance with the general national planning rules;

20. the elaboration of agricultural and forestry programs and their execution in accordance with national planning rules, the assignment of agricultural personnel and management staff in conformity with the statute on the career civil servants of the State public services, the application of the national legislation on agriculture, forests, hunting and fishing as well as the environment, the conservation of nature and the catching of wild animals, the organization and the control of agricultural campaigns, the fixing of prices for agricultural products;
21. the assignment in the Province of veterinary personnel in accordance with the statute on the career civil servants of State public services; the elaboration of programs of campaigns for animal health and the application of measures of veterinary policing measures in particular with regard to border posts and quarantine centers;
22. the organization of vaccination campaigns against animal diseases, the organization of laboratories, clinics and [animal health care] providers as well as the application of national legislation on veterinary, the organization of basic health promotion;
23. tourism, the historical heritage, the public monuments and parks of provincial and local interest;
24. urban and rural housing, road administration and the provincial and local collective equipment;
25. the inspection of provincial cultural and sports activities;
26. the exploitation of non-nuclear energy sources and the production of water for the needs of the Province;
27. the execution of measures concerning the rights of foreigners to residence and establishment, in accordance with the law;
28. the execution of customary law;
29. provincial planning.

#### Article 205

A Provincial Assembly may not legislate on matters which fall within the exclusive competence of the Central Authority. Conversely, the National Assembly or the Senate may not legislate on matters which fall within the exclusive competence of a Province.

However, the National Assembly or the Senate may by statute authorize a Provincial Assembly to legislate on matters falling within the exclusive competence of the Central Authority. When the National Assembly or the Senate terminates the delegation of powers thus granted to the Provincial Assembly, the provisions of the provincial laws promulgated on matters falling within the exclusive competence of the Central Authority by virtue of the delegation remain nevertheless in force in the Province concerned until a national law has regulated these matters.

Similarly, a Provincial Assembly may by statute authorize the National Assembly or the Senate to legislate on matters which fall within the exclusive competence of the Province.

When the Provincial Assembly terminates the delegation of powers thus granted to the National Assembly or the Senate, the provisions of the national laws promulgated on matters falling within the exclusive competence of the Province by virtue of the delegation remain nevertheless in force in the Province concerned until a provincial law has regulated them.

On the matters falling within the concurring competence of the Central Authority and the Provinces, any provincial law which is incompatible with the national laws or decrees of implementation is automatically void or abolished, to the extent that an incompatibility exists.

National legislation takes precedence over provincial legislation.

#### Article 206

Subject to contrary provisions of the national legislation, the Provincial Governments execute through their services the national statutes and decrees.

### Chapter 3 Customary Authority

#### Article 207

The customary authority is recognized.

It is transferred in conformity with local custom, provided that the latter is not contrary to the Constitution, the law, public order and morality.

Each customary Chief who desires to exercise an elective public function must submit himself to an election, unless the provisions of Article 198, paragraph 3 of this Constitution are applicable.

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

A law establishes the status of the customary Chiefs.

## TITLE V THE ECONOMIC AND SOCIAL COUNCIL

#### Article 208

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

#### Article 209

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

It may, on its own initiative, draw the attention of the Government and the Provinces on 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 operation of the Economic and Social Council.

## TITLE VI

### DEMOCRACY-SUPPORTING INSTITUTIONS

#### Chapter 1

#### The Independent National Electoral Commission

## Article 211

An Independent National Electoral Commission with legal personality is established.

The Independent National Electoral Commission is charged with the organization of the electoral process, in particular the registration of voters, the maintenance of the electoral roll, voting operations, the counting of votes and any referendum.

It ensures the regularity of the electoral and referendum process.

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

#### Chapter 2

#### The High Council for Audiovisual Media and Communication

## Article 212

A High Council for Audiovisual Media and Communication with legal personality is established.

It has the mission to guarantee and ensure the liberty and protection of the press as well as of all means of mass communication in respect of the laws.

It supervises the respect for good practice standards with regard to the information and the equitable access of political parties, associations and citizens to the official means of information and communication.

The composition, competences, organization and operation of the High Council for Audiovisual Media and Communication are determined by organic law.

## TITLE VII

### INTERNATIONAL TREATIES AND AGREEMENTS

## Article 213

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

The Government concludes international agreements not subject to ratification after deliberation by the Council of Ministers. It informs the National Assembly and the Senate about it.

#### Article 214

Peace treaties, trade agreements, treaties and agreements relating to international organizations and to the settlement of international conflicts, those which involve public finance, those which amend legislative provisions, those which relate to the status of individuals, or those which entail the exchange and addition of territory may only be approved or ratified by virtue of a law.

No transfer, exchange or addition of territory is valid without the approval of the Congolese people consulted by way of referendum.

#### Article 215

Lawfully concluded treaties and agreements have, when published, an authority superior to that of the law, subject for each treaty and agreement to the application by the other party.

#### Article 216

If the Constitutional Court, as consulted by the President of the Republic, the Government, a tenth of the Deputies or Senators, declares that an international treaty or agreement includes a clause contrary to the Constitution, its ratification or approval may only take place after the revision of the Constitution.

#### Article 217

The Democratic Republic of the Congo may conclude association or community treaties or agreements entailing a partial relinquishment of sovereignty in order to promote African unity.

### TITLE VIII

### THE REVISION OF THE CONSTITUTION

#### Article 218

The right to initiate a revision of the Constitution belongs concurrently to:

- a) the President of the Republic;
- b) the Government after deliberation by the Council of Ministers;
- c) to either of the Chambers of Parliament upon initiative by half of its members;
- d) to a fraction of the Congolese people, in the present case to 100.000 persons expressing themselves by way of petition addressed to either of the two Chambers.

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

The revision is only final if the project, proposal or petition is approved by referendum.

However, the project, proposition or petition is not submitted to referendum if the National Assembly and the Senate meeting jointly as Congress approve it by a three-fifths majority of their members.

#### Article 219

No revision may occur in times of war, the state of emergency or the state of siege, or during the interim in the Presidency of the Republic or if the National Assembly and the Senate are prevented from meeting freely.

#### Article 220

The republican form of the State, the principle of universal suffrage, the representative form of government, the number and length of the terms of office of the President of the Republic, the independence of the Judicial Power, the pluralism of political parties and trade unions may not form the object of a Constitutional amendment.

Any constitutional amendment having as its objective or consequence the reduction of individuals rights and liberties or the reductions of the prerogatives of the provinces and decentralized territorial entities is formally prohibited.

### TITLE IX

#### TRANSITORY AND FINAL PROVISIONS

#### Article 221

Provided that they are not contrary to this Constitution, the legislative and regulatory texts in force remain valid until their abolition or modification.

#### Article 222

The political institutions of the transition remain in place and exercise their powers in accordance with the Transitional Constitution until the effective establishment of the corresponding institutions provided for in this Constitution.

The democracy supporting institutions are automatically dissolved once the new Parliament has been established.

However, the Parliament may by organic law establish other democracy supporting institutions, if necessary.

#### Article 223



Until the establishment of the Constitutional Court, of the Council of State and the Court of Cassation, the Supreme Court (*Cour Suprême de Justice*) exercises the functions which is conferred upon them by the present Constitution.

#### Article 224

Until the establishment of the administrative courts, the Courts of Appeal exercise the competences conferred upon the Administrative Courts of Appeal.

#### Article 225

The Court of State Security (*Cour de Sûreté de l'Etat*) is dissolved upon entry into force of this Constitution.

#### Article 226

The provisions of the first paragraph of Article 2 of this Constitution will come into force within thirty days following the effective establishment of the political institutions provided for by this Constitution.

Until then, the Democratic Republic of Congo is composed of the city of Kinshasa and the following ten provinces with legal personality: Bandundu, Bas-Congo, Equateur, Kasai occidental, Kasai oriental, Katanga, Maniema, Nord Kivu, Province Orientale, Sud-Kivu.

#### Article 227

The Provinces as listed in Article 2 of this Constitution form the electoral constituencies of the senators of the first legislature.

The electoral law determines the conditions for the assignment of 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 April 4, 2003 is abolished.

#### Article 229

This Constitution, once it has been adopted by referendum, comes into force after its promulgation by the President of the Republic.

---

#### EDITOR'S NOTE

[1] Adopted by the National Assembly on May 13, 2005, and approved by the Congolese people by the referendum of December 18 and 19, 2005.

---

Oceana™  
198 Madison Avenue  
New York, NY 10016  
(212) 726-6000