

CONSTITUTIONES AFRICAE

Equatorial
Guinea

REPÚBLICA DE GUINEA ECUATORIAL
RÉPUBLIQUE DE GUINÉE ÉQUATORIALE
REPUBLIC OF EQUATORIAL GUINEA

PREAMBLE

We, the people of Equatorial Guinea,
Conscious of our responsibilities before God and History;
Firmly decided to safeguard our total independence, to
guarantee and consolidate our national unity;
Desirous to preserve in its authenticity the African tradition
concerning family and communal organization, adapting it to new
social and legal structures, imposed by modern life;
Conscious of the fact that the family, in its traditional sense,
holder of an intangible authority, constitutes the basis of the
social organization of Equatorial Guinea;
Profoundly attached to the principles of social justice, which
are solemnly reaffirmed in the fundamental liberties and the
human rights defined in 1789 and written down in the Universal
Declaration of Human Rights in 1948.
In conformity with these principles and with the self-
determination of peoples,
We adopt the Fundamental Law of Equatorial Guinea, with the
following content:

TITLE I

FUNDAMENTAL INSTITUTIONS

1. - Equatorial Guinea is a sovereign, independent,
democratic and unitary Republic. Its government is elective and
accountable for its actions.

National sovereignty is essentially and exclusively
vested in the people, who exercise it through suffrage. From it
emanate the public powers, which are exercised in conformity
with the present Fundamental Law and the legislation in force.

No fraction of the people or any individual can usurp
the exercise of national sovereignty.

The official denomination of the country is: Republic
of Equatorial Guinea.

The official language of the Republic of Equatorial
Guinea is Spanish.

The aboriginal languages are recognized as an integral
part of national culture.

The national flag is green, white and red in 3
stripes, stamped with a blue triangle near the mast and with the
seal of the Republic in its centre.

The seal of the Republic is determined by law.

The motto of the Republic is: Unity, Peace and
Justice.

The National Anthem is that which was sung, by the
people on the day, October 12, 1968, when independence was
proclaimed.

2. - The supreme values of the Equatoguinean State
are:

a) Respect for the human being, his dignity, liberty
and fundamental rights;

b) The protection of the family, foundation of the
Equatoguinean society;

c) The protection of work, source of stimulation for
the human personality, which creates and develops the wealth of
the nation for the well-being of society;

d) The promotion of the economic development of the

nation;

e) The promotion of the social and cultural development of the people of Equatorial Guinea so that every Equatoguinean acquires the ideals of Unity, Liberty and Justice.

3. - The primordial duties of the State are: the defence of national sovereignty and the consolidation of national unity; the maintaining of respect for fundamental human rights and the promotion of economic, social and cultural progress of the citizens.

4. - The Equatoguinean State respects the principles of international law, proclaims the legal equality of states, advocates the peaceful resolution of disputes between nations and the fellowship of states for the promotion of cooperation and socio-economic integration of peoples.

5. - The Equatoguinean State reaffirms its adherence to the United Nations, the Organization of African Unity and the Movement of Non-aligned States.

6. - The Equatoguinean State condemns all forms of colonialism or neo-colonialism, racial discrimination or segregation and recognizes the people's right of self-determination.

7. - The territory of the Republic of Equatorial Guinea includes: the continental part called Rio Muni, the islands of Bioko, Annabon, Corisco, Elobey Grande, Elobey Chico and small adjacent islands, fluvial waters, territorial seas and the continental shelf, determined by law as well as air spaces which cover it. The state fully exercises its sovereignty over its national territory and can exclusively explore and exploit all the mineral resources and minerals, hydrocarbons included.

The national territory is inalienable and irreducible. The law determines the limits of the territorial waters.

8. - For reasons of economic and administrative order, the national territory is divided into regions, counties and municipalities.

The law determines the limits and the denomination of regions, counties and municipalities.

TITLE II

NATIONALITY, CITIZENSHIP AND STATUS OF ALIENS

Chapter I Nationality

9. - One is Equatoguinean by birth or through naturalization.

10. - Are Equatoguineans by birth:

a) Persons born in Equatorial Guinea with the exception of the children of aliens who are in the service of their country and the children of resident aliens. Nevertheless, all these children can opt for Equatoguinean nationality.

b) The children of an Equatoguinean parent in the

service of the Republic, born abroad, who consider themselves born on national territory for any purpose.

c) The children of an Equatoguinean father or mother born abroad.

11. - Are Equatoguineans through naturalization:

a) Adult aliens who have resided in the Republic of Equatorial Guinea for at least ten consecutive years, who requested and obtained naturalization papers and renounced their former nationality.

b) Aliens, adopted by an Equatoguinean.

c) The child of an Equatoguinean mother, married to an alien, who opts for the Equatoguinean nationality.

d) Anyone who exceptionally acquires the nationality from the Head of State.

The law regulates the procedures for the option of Equatoguinean nationality, the granting, refusal and revocation of naturalization papers and the modalities of establishing a registry for all these acts.

12. - Alien women who marry an Equatoguinean man acquire the nationality of their husband and automatically lose their original nationality.

13. - The Equatoguinean nationality is lost:

a) Through voluntary acquisition of another nationality.

b) Through revocation of the naturalization papers.

c) By application of a law, revoking the exceptionally acquired nationality.

d) In other cases provided for by law.

Anyone who has lost the Equatoguinean nationality for a reason provided for by this article, can only be rehabilitated by law.

Chapter II Citizenship

14. - Equatoguinean citizenship is acquired at eighteen years of age.

The status of citizenship confers the right of direct and indirect suffrage as well as the other rights, guaranteed by the Fundamental Law and the legislation in force.

15. - The rights of the citizen are suspended:

1) Through civil interdiction.

2) By application of a final judicial sentence which imposes the punishment of deprivation of liberty with the loss of civil rights.

3) In any other case, determined by law.

Chapter III The status of aliens

16. - In general, aliens enjoy the same civil rights as Equatoguineans, within the limits of restrictions, imposed by the Fundamental Law and the legislation in force.

Aliens are excluded from exercising political rights.

17. - The State encourages and facilitates immigration. It requires that aliens dedicate themselves to the activities which have been expressly authorized.

18. - In conformity with the law and international agreements, the State guarantees the right of asylum to aliens.

TITLE III

RIGHTS AND DUTIES OF INDIVIDUALS

Chapter I Rights of the individual

19. - The human being is the supreme priority of the State. Everyone is under the obligation to respect and protect it.

20. - The following rights are guaranteed to everyone:
 1) Respect for life, personal integrity and the right to full material and moral development. Torture and any other inhuman or degrading treatment is forbidden. The death penalty may only be imposed for a crime determined by law.

The penitentiary system intends to assure the re-education, rehabilitation and social re-integration of prisoners.

The application of constraint or arbitrary and illegal restriction of individual liberty is prohibited.

2) The freedom to express thoughts, ideas and opinions by means of words, writings or any other means of reproduction, in conformity with the law. The freedom to transmit or receive truthful information by any means of diffusion.

3) Equality before the law.

All discrimination by reason of ethnic background, race, sex, language, religion, filiation, political opinion, social origin, economic status, birth or any other grounds, is prohibited.

A woman, whatever her family situation, enjoys the same rights and advantages as a man at all levels of public, private or family life, in the civil, political, economic, social and cultural spheres.

4) The right to honour and a good reputation.

5) The freedom of conscience and religion, individual or collective, in public or private.

The freedom to choose and practice a religion is guaranteed. The faithful can profess their faith within the limits of the legal prescriptions in order to preserve national security, public order, morality and fundamental human rights.

Religious practice must show the greatest respect for the good customs, the tradition and the African culture of the Equatoguinean people.

6) The inviolability of the home.

The home is inviolable. No one can enter or search it without the authorization of the competent authority or by judicial order, subject to conditions and forms prescribed by law.

7) The right of inviolability and confidentiality of all oral and written communications, in any form, except for cases prescribed by law.

8) The inviolability of private documents.

However, these may exclusively be examined for taxation reasons, by court order during a trial or in accordance with the law.

9) The freedom to travel throughout the national

territory and to choose their residence.

The Equatoguineans can freely enter and leave Equatorial Guinea whenever they desire it. Entry and exit of aliens are regulated by law.

The law determines the indispensable restrictions in order to protect national security.

10) The right to present complaints and petitions to the authorities, but under no circumstances in the name of the people, and to receive statements of concern and the appropriate answers, in conformity with the law.

11) The freedom of work in all forms provided by the law. No one can be obliged to perform unremunerated or forced labour, except in the cases set forth by the law.

12) The freedom of association and assembly without other restrictions than those set forth by the law.

The associations or organizations whose objectives and activities endanger the understanding and harmony of ethnic groups or harm the spirit of national unity, are prohibited.

13) The right to a standard of living that meets the needs of health, nutrition, education, clothing, housing, medical care and necessary social services.

14) The right to participate in the cultural life of the community.

15) The right not to be deprived of one's liberty except by court order, in the cases determined by law and those of flagrant crimes.

16) The right to be informed about the reasons of one's detention and the right of defence.

17) The right to be presumed innocent as long as guilt is not legally established.

18) The right not to be obliged to testify against oneself, one's spouse or family members of the fourth degree of consanguinity or second degree of filiation nor to be obliged to testify under oath against oneself in cases where one's penal responsibility might be involved.

19) The right not to be judged nor convicted twice on the same grounds.

20) The right not to be convicted without prior trial, nor to be deprived of the right of defence at any stage of the proceeding.

21) The right not to be punished for an act or omission which was not codified nor punished at the moment of occurrence; no penalty shall be imposed if not provided for by law.

In case of doubt, the criminal law is applied in the way which is the most favourable to the defendant.

21. - If appropriate the fundamental rights are also applicable to legal entities.

22. - The enumeration of fundamental rights recognized in this chapter does not exclude the other rights, guaranteed by the Fundamental Law, nor similar rights deriving from the dignity of man, from the principle of sovereignty of the people or from the social and democratic constitutional State, and the republican form of the State.

Chapter II Political rights

23. - The Equatoguinean citizens enjoy the right to elect and to be elected; to be consulted in the cases set forth by the Fundamental Law and to take up public offices, under the conditions determined by the law.
24. - Suffrage is universal, equal, direct, secret and compulsory for all Equatoguinean citizens.
25. - The system of popular consultation is established in the cases set forth in this Fundamental Law. The decision taken according to this procedure is binding.
26. - To exercise public office is to render a service to the Equatoguinean Nation.
No authority is discharged of its responsibility in the exercise of its functions.
The civil servants, simple depositaries of the authority, can only accomplish those acts which are expressly authorized by the legislation and reglementation in force.
27. - In no case is the extradition of an Equatoguinean permitted. A prosecuted Equatoguinean must be tried in conformity with the laws of the nation.
28. - The reasons and conditions to suspend and to reinstate the exercise of political rights, are set forth by the law.

Chapter III Duties

29. - All Equatoguineans have the duty to honour the Fatherland, to defend its sovereignty, territorial integrity and national unity, to contribute toward the preservation of national security and the essential values of the Equatoguinean tradition and to safeguard and protect the national interests.
30. - Military service is compulsory.
31. - Every Equatoguinean citizen has the duty to live in such a way as to preserve peace, to respect the rights of other citizens and to contribute to the formation of a just, fraternal and unified society.
32. - Every inhabitant of the Republic has the duty to respect Equatorial Guinea, the flag, the Head of State, the government and all other legally constituted institutions.
33. - Any act which damages the security of the State, the territorial integrity or the national unity is severely punished, in conformity with the law.
34. - Every citizen has the duty to respect, execute and defend the Fundamental law and other legislative and statutory prescriptions of the Nation.
35. - All the citizens contribute by their work, considered as a personal and social duty, to the general well-being and to the development of their own personality.

36. - Every citizen has the duty to pay the contributions and to support the assessments fixed by the law for the support of the State's commitments.

37. - The enumeration of duties inserted in this chapter does not exclude the other duties, prescribed by the Fundamental Law, nor similar duties to safeguard the general interests.

Chapter IV Constitutional guarantees

38. - The right of habeas corpus is recognized. Every aggrieved person, or any other person acting in his name, has the right to invoke it when illegally jailed, detained or threatened in any way in the enjoyment of his individual liberty, or when during arrest or lawful imprisonment he is subjected to torture, ragging or any other form of violence, restriction or pestering which is not necessary for his individual security or for the good order of the detention center.

The courts when declaring the claim admissible, must order his release, and must order that the ragging and the violence, to which he was subjected, be stopped.

39. - The right of legal protection is recognized. Every wronged person, or any other person acting in his name, has the right to appeal to the court to ensure that the rights, guaranteed by this Fundamental Law are restored or maintained.

One can also appeal to the court to request in concrete cases the annulment of a decision, an act or action of an authority which violates, diminishes or affects the constitutional rights.

40. - The laws, law-decrees and regulations can be declared contrary to the Constitution in their form or content, in accordance with this Fundamental Law.

A law regulates the procedure and the conditions for the exercise of these recourses and determines the organs competent to hear them.

TITLE IV

THE FAMILY

General principles

41. - The State protects the family as the fundamental cell of society.
It ensures the moral, cultural and economic conditions to favour the realisation of its objectives.

It protects equally all kinds of marriage, celebrated in conformity with the law, as well as motherhood and family goods.

The family property cannot be seized nor alienated, within the conditions and proportions set by law.

42. - The State protects the child from its conception onwards and protects the minor by ensuring him the conditions

for a normal development at home, in security and moral and physical integrity.

43. - The State encourages and protects responsible parenthood and assures the promotion of an appropriate education for the progress of the family.

TITLE V

EDUCATION AND CULTURE

General principles

44. - Education is a primordial duty of the State. The State guarantees education to all inhabitants of Equatorial Guinea, without any discrimination.

45. - The State elaborates and carries out plans to eradicate illiteracy.

46. - The general basic state education of all kinds is compulsory and free of charge.

47. - The State recognizes the parents' right to educate their children in their own way.

48. - The State guarantees to every person, private organization or religious community, if legally constituted, the right to set up schools, provided that the official educational standards are respected.

49. - The official education permits the free choice of programs of religious training, in conformity with the freedom of conscience and religion, guaranteed by this Fundamental Law.

50. - The officially recognized education can not be oriented to propagate any partisan ideological tendency.

51. - The State assures the promotion of culture, artistic creation, scientific and technological research and watches over the conservation of the cultural patrimony and the artistic and historical wealth of the Nation.

TITLE VI

WORK, SOCIAL SECURITY AND PROGRESS OF THE CITIZEN

Chapter I Work

52. - The State recognizes work as the principal source of wealth. Work is a right and a social duty. It is up to the State to promote economic and social conditions to eliminate poverty and misery and also to allow the inhabitants of the Republic of Equatorial Guinea the assurance of a useful occupation and to protect them against unemployment in any of its forms.

The law ensures the worker respect for his dignity, a decent existence and a remuneration corresponding to his work.

53. - In all labour relations, the conditions which prevent the exercise of the fundamental rights of the worker, are forbidden.

54. - Work, in all its forms, is protected by the State as part of a system of equal treatment.

55. - The basic salary is periodically readjusted by the State. The remuneration of the work cannot be seized in its totality.

56. - The State encourages the cultural progress, the professional education and the technical improvement of the workers, in order to improve the productivity, the social well-being and the development of the country and to favour the creation of organizations, socially oriented towards these purposes.

57. - The payment of salaries and social benefits of the workers is the primordial obligation of the employer, except for the cases provided for by the law.

58. - The public officials may not strike. This prohibition is equally applicable to the personnel of companies or enterprises, whatever their nature or social aim, which provide services of public utility or whose paralysis would seriously damage health, economy, provisioning of the population or national security.

Social conflicts and administrative litigation are settled according to the law.

Chapter II Social security and progress of the citizen

59. - The State establishes and maintains a public system of social security for all Equatoguineans, which guarantees the insured person and his family assistance and insurance benefits in case of unemployment, illness, pregnancy, disability, old age or death.

The social assistance is established and insured by the State, in accordance with the law.

60. - The State recognizes the right to the protection of health.

It has the following duties: to organize and to protect public health and to take preventive measures for the improvement of the environment of cities and villages; to combat infant mortality, to ensure sanitary, physical and sporting education; to apply programs leading to the elimination of alcoholism and toxicomania in general; and to create the necessary infrastructures, mobilizing the different organizations in charge of setting up these programs, in conformity with the law.

61. - The State supervises the production, the quality, the marketing and consumption of food products and the use of pharmaceutical and biological products. It also combats the illicit traffic of drugs and narcotics.

62. - The State ensures the training and promotion of women for their integration in active life and their participation in the development of the country.

63. - The State plans and programs the needs of the physically and mentally disabled as far as treatment, rehabilitation and social integration is concerned. It gives them the special attention which they need and the indispensable protection to afford them the enjoyment of the rights of this Fundamental Law.

64. - No Equatoguinean worker can be deprived of the rights of labour and social security.

TITLE VII

ECONOMY AND PROPERTY

Chapter I Economy

65. - The economic system of the Republic of Equatorial Guinea is based on the principle of free trade, freedom of enterprise and competition and the State's intervention is oriented toward the just distribution of national wealth and growth. The economic system of the Republic of Equatorial Guinea is defined by the law.

66. - The State defends the principle of a liberal economy and recognizes public and private initiative. The State can, by means of a law, reserve to the public sector, such essential services and resources, which by their importance and size may have such an economic or political impact that it is advisable to perceive their management as part of the preservation of the general interests of the community.

67. - Are considered resources and services, reserved for the public sector:

- a) minerals and hydrocarbons;
- b) the services of the supplying of drinking water and electricity of cities and villages;
- c) the services of mail and telecommunication;
- d) radio broadcasting and television and
- e) all other resource or service determined by the law.

The State can delegate or associate itself with private initiative for the development of any of the activities or services, previously mentioned, in accordance with the law.

68. - The State supports and encourages commercial activities, controls and protects banking, exports and imports.

69. - The State protects, guarantees and controls the investment of foreign capital which contributes to the development of the country.

70. - By means of its fiscal and credit policies, the State encourages the activities which are realized in the priority sectors of the national economy, according to the law.

71. - The economy of the Republic of Equatorial Guinea consists of four fundamental sectors:

1. The public sector, which includes the enterprises exclusively owned by the State, engaged essentially in the exploitation of resources and services enumerated under article 67, or any other economic activity;

2. The sector of mixed economy which consists of enterprises of the public sector in association with private capital.

The State takes part in enterprises of mixed economy to promote investments in domains where the private sector cannot function without the support of the public sector;

3. The cooperative sector whose property and management belong in common to the persons who work there permanently.

The State prescribes laws to control and develop this sector;

4. The private sector which consists of enterprises owned by one or more physical or moral persons of private law and, in general, the enterprises which do not belong to any other sector, previously enumerated.

72. - The State supports, guarantees and encourages the investment of national capital. It encourages the private initiative of physical and moral persons, nationals or aliens, who create businesses in the Republic of Equatorial Guinea.

73. - The State encourages and organizes programmes of moral, cultural, economic and social development of the population, especially those which are related to agriculture and fishing. It also encourages various sectors of development which contribute actively to these programmes of the community.

Chapter II Ownership

74. - The State recognizes public and private ownership.

It guarantees and protects the right to private ownership, which means that individuals can freely enjoy and dispose of a good or a right without other restrictions than those established by the law.

The content of this right is defined by its social function and by the laws in force.

The law sets the conditions of acquisition, possession and loss of ownership.

75. - Property is inviolable.

No one can be deprived of his goods or rights, except for causes justified by public utility or social interest, in conformity with the law and after suitable compensation.

The law determines the cases and the procedure of forced expropriation.

76. - The State guarantees to the farmers the traditional ownership of the lands they possess.

77. - The State efficiently assures the promotion of various forms of participation of the workers in the enterprises by procuring them shares, in accordance with the law.

78. - Ownership is exclusively ruled by Equatoguinean laws.

79. - The law may, for reasons of national interest, establish restrictions and special prohibitions on the acquisition, the possession, the exploitation and the transfer of certain goods because of their nature, condition or site.

80. - The State guarantees and protects intellectual property.

The rights of authors and inventors on their different works and creations are recognized for the time and under the conditions determined by law.

The State also guarantees the industrial and commercial names, trademarks, designs and models.

The law regulates each of the aforementioned rights.

81. - The goods of the public domain, which are reserved for the use of everyone, cannot be the object of private rights.

The goods of the public domain are those determined by the law and, in all cases, the lands which are not bound by the rules of private property, the forests, the mineral and hydrocarbon resources, the sources of energy, the fluvial waters, the territorial waters and the continental shelf, as well as the artistic, cultural and archaeological goods of the Nation.

The law regulates the legal status of the goods of the public domain, inspired by the principles of non-renunciation, imprescriptibility, non-distrainability and inalienability.

Chapter III The fiscal system

82. - Through a taxation law, inspired by the fundamental principles of equality, generality and progressiveness, the State establishes the taxes, contributions and parafiscal taxes, as well as the special modalities conducive to the settlement of each fiscal contribution.

The law disposes that all physical or moral persons, natives or foreigners, resident in the Republic of Equatorial Guinea are bound to pay their taxes.

83. - Taxes and other contributions shall only be established, modified or abolished by an act of the appropriate legislative organ, in conformity with this Fundamental Law. Taxation laws shall not have a retroactive effect.

Chapter IV The general budget of the State

84. - All the earnings and expenditures of the State for all budgetary actions must be evaluated and recorded in the budget.

The Government elaborates the general budget of the State, in conformity with this Fundamental Law.

The law regulates the regime of the general budgets of the State.

Chapter V The monetary system

85. - Through the Bank of Equatorial Guinea which executes its monetary policy, the State exercises the exclusive right to issue bills and coins.

86. - The monetary unit of Equatorial Guinea is the Epkuele, of which the rate of exchange on the international market is fixed by the Government.

The Government also determines the monetary policy of the Republic of Equatorial Guinea.

TITLE VIII

THE ORGANS OF THE STATE

General principles

87. - The State exercises its functions through the President of the Republic, the Council of State, the Council of Ministers, the House of Representatives of the People, the Judiciary, the National Council for Economic and Social Development and other agencies, created in conformity with this Fundamental Law.

The regions, counties and municipalities depend from the central administration. They contribute in the realization of the functions and objectives of the State and are governed by the organs provided by the law.

Chapter I The President of the Republic

88. - The President of the Republic is the Head of State and of Government. He embodies national unity and represents the Nation.

89. - The President of the Republic is elected by universal direct and secret suffrage, by the simple majority of the validly cast votes.

The electoral law determines the conditions and the modalities of the vote.

90. - The conditions to be President of the Republic are the following:

- a) To be Equatoguinean by birth;
- b) To enjoy civic rights;
- c) Not to be more than seventy five years of age;
- d) To be able to interpret this Fundamental Law;
- e) To have lived in Equatorial Guinea for ten years at

least;

f) To have been elected according to art. 89 of this Fundamental Law.

91. - The President of the Republic is elected for a term of seven years and can be re-elected.

The presidential elections are convoked during the seventh year of the term of the President of the Republic, at a date set by a decree of the Council of Ministers, upon advice of the Council of State.

The elections take place forty-five days before the expiration of the term of the President in office or at the

latest within sixty days after this date.

92. - The President of the Republic determines and directs the general policy of the Nation and his authority extends to all the territory in all matters, dealing with the preservation of internal public order and the security of the State abroad.

Consequently, the President of the Republic:

- a) Assures the strict application of this Fundamental Law, the normal functioning of the public powers and the continuity of the State;
- b) Sanctions, promulgates or rejects the bills approved by the House of Representatives of the People; gives effect to laws and has them carried out; enacts regulations for a good execution of the laws; signs the decrees and orders, indispensable for this purpose and for everything concerning governmental and administrative actions;
- c) Signs the law-decrees, necessary to fulfill the high missions of the State;
- d) Is the Supreme Chief of the National Armed Forces and of the Security of the State;
- e) Declares war and makes peace;
- f) Freely appoints and dismisses the members of Government;
- g) Appoints and dismisses the civil and military officials in conformity with the law. He can delegate this power to a Prime Minister, in a discretionary way;
- h) Represents Equatorial Guinea in its international relations, receives and accredits the ambassadors and authorises the consuls to exercise their functions;
- i) Negotiates and ratifies the international agreements and treaties;
- j) Confers the titles, honours and distinctions of the State;
- k) Exercises the right of mercy;
- l) Convokes and presides the Council of Ministers;
- m) Exercises the regulatory power;
- n) Is the supreme holder of the executive power. He creates, organizes and directs the administrative services, indispensable for the fulfillment of his mission;
- o) Calls the general elections, as laid down in this Fundamental Law;
- p) Calls the referenda;
- q) Exercises the other duties and prerogatives, conferred by the laws.

93. - In case of imminent danger, the President of the Republic may suspend the rights and guarantees established in the third title of this Fundamental Law and take exceptional measures to safeguard the independence of the Nation, the territorial integrity, national unity, the institutions of the Republic and the normal functioning of the public powers, informing the Nation by a message.

94. - The President of the Republic may, when the circumstances require it, declare the state of siege, the state of alert or the state of emergency, in all or a part of the national territory.

95. - The President of the Republic stops holding his function and leaves office in the following cases:
 a) Resignation accepted by the Council of State;
 b) Physical or mental incapacity, declared by the Council of State;
 c) Completion of his mandate;
 d) Death.

96. - In case of temporary absence, the functions of the President of the Republic, except those provided for by articles 92-o, 92-p, 93, 94, 120, 121 and 156, are temporarily exercised by a college including the Prime Minister, the President of the House of Representatives of the People, the President of the Supreme Court of Justice, a member of the Council of State and the Minister of National Defence. This college takes its decisions by a three quarter majority vote. During this temporary absence the composition of the Government cannot be modified.

97. - In case of accepted resignation, declared incapacity or death of the President of the Republic, he is temporarily replaced by the President of the Council of State. The acting President convokes the new elections within forty-five days at the most, to fill the vacancy of the President of the Republic, if no more than four years have elapsed since the beginning of the term of the preceeding President, in which case the substitute continues to take up the functions of the President of the Republic until the expiration of the mandate. The term of the President, elected in accordance with the provisions of the preceeding paragraph, ends on the date on which would have ended that of the substituted President.

98. - The elected President takes the oath of loyalty to the Fundamental Law and takes his functions before a Court of Honour including the President and members of the Council of State, the Bureau of the House of Representatives of the People and the entire Supreme Court of Justice.

Chapter II The Council of State

99. - The Council of State is the most important collegial organ of the State. It guarantees the sacred values of the homeland, national sovereignty, territorial integrity, national unity, peace, justice and democratic liberties.

100. - The Council of State assures the control of the democratic development of the political and social life of the Republic of Equatorial Guinea. It also watches over the constitutionality of the laws.

101. - The Council of State is composed of eleven members with a term of five years. Are ex officio members: the President of the House of Representatives of the People, the President of the Supreme Court of Justice and the Minister of National Defence.

The President of the Republic appoints the President, the Vice-President and all the other members of the Council of State.

102. - The council of State has the following powers:

- a) It approves the candidacies for the general elections to the Presidency of the Republic according to this Fundamental Law. It is also informed of the date of these elections.
 - b) It judges the validity of the general elections and proclaims the results. It examines and decides on the petitions concerning the outcome of these elections.
 - c) It approves or rejects, depending on the case, the resignation of the President of the Republic.
 - d) It declares the physical or mental incapacity which constitutes a legal obstacle to exercise the functions of President of the Republic.
 - e) It judges the constitutionality of the laws of an institutional nature, before their promulgation.
 - f) It judges, without the possibility of appeal, the constitutionality of the regulatory application of the institutional laws.
 - g) It reports on the legality of the regulatory application of other laws and gives them a general and binding interpretation when necessary.
 - h) It advises the government with regard to all questions submitted to it.
- The Council of State can, in case of necessity and in a purely consultative way, invite one or several international experts or nationals of friendly nations designated at its request by the international institutions which employ them or by their countries of origin.

103. - In case of absence of the President of the Council of State, for whatever reason, the Vice-President takes his place.

An internal regulation determines the functioning and the internal organization of the Council of State.

Chapter III The Council of Ministers

104. - The President of the Republic is assisted by a Council of Ministers in the exercise of his political and administrative functions.

The Council of Ministers consists of the Ministers assembled under the presidency of the President of the Republic.

105. - The Council of Ministers is the organ which determines the general policy of the Nation, assures the application of the laws, exercises the regulatory power and assists the President of the Republic in a permanent way, in political and administrative matters.

The law determines the number of ministries, their denominations and their respective competences.

106. - The direction, the management and the administration of the public services are entrusted to the ministers in the domains of their respective departments.

107. - Except for the cases expressly defined in this Fundamental Law and in the other laws, the Council of Ministers has the following powers:

- a) It directs the general policy of the Nation, organizes and implements the economic, cultural, scientific and

social activities.

b) It proposes the plans for the economic and social development of the State and organizes, directs and controls their execution once they are approved by the House of Representatives of the People and promulgated by the President of the Republic.

c) It elaborates the Finance Bill of the Nation and looks after its execution once it is approved by the House of Representatives of the People and promulgated by the President of the Republic.

d) It determines the monetary policy and adopts the measures which are necessary to protect and reinforce the monetary and financial system of the Nation.

e) It elaborates the bills and submits them to the House of Representatives of the People for approval or to the advice of the Council of State as the case may be.

f) It grants the right of asylum.

g) It directs the State's administration, coordinates and controls the activities of the different ministerial departments.

h) It executes the laws which are promulgated, the law-decrees, the regulations and the presidential orders.

i) It creates the commissions, necessary for the effective fulfilment of the tasks which are assigned to it.

108. - The President of the Republic freely appoints and dismisses the Prime Minister and the Vice-Prime Ministers. They are responsible before him for the tasks which are delegated to them for the fulfilment of the missions which are assigned to them by this Fundamental Law.

109. - In the exercise of his function as the Head of Government, the President of the Republic is assisted by a Prime Minister who, independently from the other tasks which are delegated to him, assures the administrative coordination, watches over the good functioning of the public services and supervises the execution of the programs of the Government.

He presides over the ministerial commissions in charge of instructing on the questions to be submitted to the Council of Ministers.

He presents bills, adopted by the Government to the House of Representatives of the People.

In case of absence, the Prime Minister is replaced by the first Vice-Prime Minister.

110. - Exceptionally, and by virtue of an express delegation, the Prime Minister replaces the President of the Republic to preside over the Council of Ministers with a fixed order of the day.

111. - The President of the Republic, as Head of Government, can immediately assume the functions of one or several ministers.

In this case, he can expressly appoint one or several members of the Government.

112. - All members of the Government are personally responsible before the President of the Republic and before the law, for all the actions they take in the exercise of their functions.

The members of the Government, together with the Head of Government, are:

- a) The Prime Minister;
- b) The Vice-Prime Ministers;
- c) The Ministers;
- d) The Vice-Ministers;
- e) The Secretaries of State.

113. - Before entering into their functions, the Prime Minister and the other members of the Government, in the presence of the President of the Republic, take an oath of loyalty to him and to this Fundamental Law.

114. - The Council of Ministers in full or the Ministers separately, can participate in an advisory capacity, in the debates of the House of Representatives of the People. They can also be invited to inform the House about a specific question.

Chapter IV The House of Representatives of the People

115. - Legislative power belongs to the people, who delegates it to the House of Representatives of the People, which exercises it within the limits fixed by this Fundamental Law.

116. - The House of Representatives of the People consists of a minimum of 45 members and a maximum of 60. They are elected for five years through direct and secret universal suffrage, in general elections which take place in one day and within sixty days before the end of the mandate.

The electoral law determines the circumstances wherein the elections are organized and determines the proportional representation. It regulates the organization of the elections and sets the date on which the elected candidates enter in their functions, as well as the conditions of eligibility and the system of incompatibility.

117. - The members of the House of Representatives of the People are not bound by an imperative mandate.

118. - The Representatives of the People have the right of amendment and of vote. The vote is personal.

119. - The functions of the House of Representatives of the People are the following:

- a) Election, among their members, of the President, the Vice-Presidents and the bureau;
- b) Elaboration of its own internal regulation;
- c) Approval of amendments to the Fundamental Law, presented by the Government;
- d) Approval of the budgets of the State, the revenues and expenditures and the public investments;
- e) Approval of taxation laws and, should the occasion arise, abolition of taxes and other contributions;
- f) Approval of the regulation of weights and measures;
- g) Determination of the principles of civil law, commercial law, civil procedure, administrative law, penal law, and labour law;

freedom; h) Regulation of the fundamental rights and the public

i) Approval of international treaties, to be submitted to the President of the Republic for ratification;

j) The authorization of the President of the Republic to issue law-decrees concerning matters falling in the domain of the law, in case of extreme urgency;

k) Questioning of Ministers on problems in their jurisdiction and their summoning before the House in order to give explanations on their general policy or on a specific problem in their jurisdiction;

l) Appointment of commissions in the House, in order to investigate on matters wherein the public may be involved. These commissions have free access to all the offices of the administration but the secrets of the State must be preserved.

120. - The President of the Republic, upon advice of the Government, the Council of State and the Bureau of the House of Representatives of the People, may submit to popular consultation, any question which appears to require the direct consultation of the people. The draft adopted in this manner is promulgated by the President of the Republic in the period determined by article 137 of this Fundamental Law.

121. - The President of the Republic may, in Council of Ministers and upon advice of the Council of State, dissolve the House of Representatives of the People and convoke extraordinary elections. If the dissolution takes place during the last year of the mandate of the Representatives of the People, new elections are organized in conformity with the prescriptions of article 116 of this Fundamental Law.

122. - A vacancy of seats hinders the normal functioning of the House of Representatives of the People, these seats must be filled immediately. The procedure which must be followed in this situation, is determined by law.

123. - No Representative of the People can be prosecuted nor detained for the opinions which he expresses in the exercise of his function in the House.

The arrest or indictment of a Representative of the People requires the prior pertinent authorization of the Bureau of the House, except in the case of flagrante delicto.

124. - The House of Representatives of the People meets as a matter of law on the first working day, which is thirty days after the promulgation of the results of the general elections.

The order of the day of this first session is exclusively devoted to the election of its President and its Bureau unless the Government demands the inclusion of urgent matters.

125. - The date of the opening of each session is determined by the Bureau of the House, upon advice of the President of the Republic.

The opening and closure of each session, ordinary or extraordinary, is determined by a presidential decree, in agreement with the Bureau of the House.

126. - The sessions of the House of Representatives of the People are public. The reports of the debates are entirely and daily transmitted to the national media for publication.

127. - Upon request of the Government or of three quarters of the Representatives of the People, the House may, for reasons of secrecy or security previously established, organize closed-door sessions on some drafts submitted for its examination.

128. - The House of Representatives of the People meets two times a year, in March and in September, for a maximum time of two months for each session.
Each session starts the second monday of the corresponding month. If this is a holiday, the opening is postponed to the following day.

129. - The House of Representatives of the People votes the general budget of the State which is presented by the Government during the second session.

If the general budget is not approved before the end of the current budgetary year, the President of the Republic is entitled to issue twelfth parts on the basis of the previous budget, until the approval of the new financial law.

Upon request of the Government, the House of Representatives of the People is convoked within ten days in extraordinary session for a new deliberation. If no agreement has been made during this last session, the financial law is definitively established by a law-decree of the President of the Republic.

130. - Upon request of the President of the Republic or three-quarters of the members of the House, the House of Representatives of the People may meet in extraordinary session to examine a determined order of the day.
The quorum required for holding sessions is the presence of half plus one of the Representatives of the People. The decisions are taken by simple majority of votes.

131. - The legislative initiative belongs jointly to the President of the Republic in Council of Ministers and to the Representatives of the People. Nevertheless, bills must be signed by at least three-quarters of the members of the House.
The bills emanating from the Representatives of the People are tabled at the Bureau of the House and previously transmitted to the Government for examination.

132. - Except for the cases expressly foreseen in other articles of this Fundamental Law, the following subjects are the domain of the law:

- a) The regulation of the exercise of the rights and duties of the citizens.
- b) The fundamental principles of the general organization of the Armed Forces, the Security of the State and the National Defence.
- c) The forced expropriation of goods for public or private utility.
- d) The citizenship, the status and the capability of the persons; the matrimonial rules, the procedures of inheritance.

- e) The judicial organization, the creation of new jurisdictions and the status of the magistrates.
- f) The organization of the duties of the public ministries, the determination of crimes and offences and the establishment of the corresponding punishment, the penal procedure, the penitentiary system, the amnesty and the right of pardon.
- g) The system of the associations.
- h) The system of issuing and minting the currency.
- i) The general administrative and financial organization.
- j) The conditions of the participation of the State in the enterprises of mixed economy and in the management of those enterprises.
- k) The system of public patrimony.
- l) The system of public liberties, of property, of concessions, of the real rights and of civil and commercial obligations.
- m) The loans and financial obligations of the State.
- n) The program of economic and social action.
- o) The fundamental principles of education, of culture, of the right to work and of the social security.

133. - Before the promulgation of a law, the President of the Republic may request, upon his own initiative, that the text of this law be submitted for a second or a third reading by the House of Representatives of the People.

134. - The Government may in case of necessity, ask the House of Representatives of the People for authorization to give a ruling by law-decree, during a determined period, on matters which fall in the domain of the law.

These law-decrees are applicable from the moment of their publication and can only be repealed by law.

A copy of each law-decree is sent to the House of Representatives of the People for information.

135. - The President of the Republic may be officially heard by the House of Representatives of the People or he may address messages to it. These communications cannot lead to any debate in his presence, except if this session is specially summoned for this purpose.

136. - The order of the day of the House of Representatives of the People is determined by its Bureau.

In case of conflict about the admissibility of a legislative text, the House of Representatives of the People refers this matter to the President of the Republic, who decides on it.

137. - The President of the Republic promulgates the laws within fifteen days after the approval by the House of Representatives.

Chapter V The Judicial Power and the Office of the Public Prosecutor

138. - The Judicial Branch exercises the jurisdictional function of the State.
Justice emanates from the people and is dispensed in

the name of the Head of State by the judges and magistrates who make up the Judiciary, according to the law.

The law on the organization of the Judiciary determines the organization and the competence of the courts in order to obtain a rapid and objective administration of justice. The same law determines the conditions which judges and magistrates must fulfill, as the depositories of the Judicial Power.

139. - The sources of law are:

- a) The written norms;
- b) The unwritten norms.

The unwritten norms allow to integrate, to delimit and to interpret the written norms; they have the status of norms which integrate, delimit or interpret. In the absence of a written norm, the unwritten norm acquires the force of law.

a) The written sources of law, in order of importance, are:

- 1) The Fundamental Law;
- 2) The international treaties;
- 3) The laws and law-decrees;
- 4) The regulations.

b) The unwritten sources are:

- 1) The customs or the traditional usages;
- 2) The general principles of law; and
- 3) The case law.

140. - In the exercise of their functions, the members of the Judiciary are subjected only to the law.

141. - The Head of State is the first Magistrate of the Nation and he guarantees the independence of the Judiciary.

142. - The principle of jurisdictional unity is the basis of the organization and functioning of the courts. The law regulates the exercise of the military jurisdiction.

143. - Whatever the nature of the trial, the exercise of the Judicial Power rests exclusively with the courts recognized by law, which judge and have their decisions carried out.

144. - The trials are public, except for those cases expressly mentioned by the law, but the courts deliberate in secret.

145. - The Supreme Court is the judicial body competent in all the domains and its jurisdiction extends to all the Republic, except if disposed otherwise in matters of constitutional guarantees. It consists of a President and twelve members whose competences are determined by the law.

Apart from the judicial attributions which the law confers, the Supreme Court has a consultative function in legal and administrative matters which are submitted to it by the Government and the Council of State.

146. - In the administration of justice, all partial or discriminating acts duly noted, perpetrated for tribal, sectarian or racial purposes, are punished by the law.

147. - The President and the competent members of the Supreme Court are freely appointed by the President of the Republic for a period of five years. They can be dismissed and are responsible.

The judges and the magistrates of the judicial courts, as well as the officers of the Ministry of Justice in general, except for those mentioned in article 149 of this Fundamental Law, are appointed according to the law.

148. - The principal mission of the Office of the Public Prosecutor is to watch over the strict respect for the Fundamental Law, the laws and other legal provisions through all the bodies of the State, the regions, the counties and the municipalities, as well as the citizens and the aliens, residing in the country.

The Office of the Public Prosecutor also acts as a technical advisory agency to the Council of State.

149. - The Chief Public Prosecutor of the Republic and his assistants are appointed and dismissed freely by the President of the Republic.

The Office of the Public Prosecutor is regulated by a particular text.

Chapter VI The National Council for Economic and Social Development

150. - The Economic and Social Council is the technical advisory agency on economic and social plans and programs, as well as on all legislative and regulatory provisions of a fiscal nature. It can likewise analyse the problems of economic and social development of Equatorial Guinea on the basis of a market economy.

The National Council of Economic and Social Development determines its standard and submits its conclusions on all matters which are submitted to it for research by the President of the Republic, the Council of State, the House of Representatives of the People and other public organizations.

The National Council of Economic and Social Development watches over the execution of decisions of the Government concerning the economic and social organization.

151. - The National Council of Economic and Social Development consists of technicians, specialists and persons in charge of matters of economic and social development. It consists of thirty members, appointed by the President of the Republic for a period of five years.

The internal organization and the modes of functioning of the National Council for Economic and Social Development are determined by law.

TITLE IX

THE ARMED FORCES, THE STATE SECURITY FORCES AND THE NATIONAL DEFENCE

Chapter I The Armed Forces and the State Security Forces

152. - The Armed Forces and the State Security Forces constitute the national institution which has the paramount duty to maintain national independence, to defend national sovereignty, to preserve national unity, to safeguard the supreme values of the Nation, the security of the State, the public order and the normal functioning of the public powers, in conformity with the provisions of this Fundamental Law. The Armed Forces and the State Security Forces are ruled by their own regulation, in accordance with the legislation in force.

Chapter II The National Defence

153. - When the circumstances require it, all the active Forces as well as the entirety of moral and material resources of the Nation, must participate in the organization of the National Defence. The organization of the National Defence is ruled by a particular text.

TITLE X

THE COMMUNAL ADMINISTRATION

Chapter I The Local Communities

154. - The Local Communities are institutions with a proper legal status; they are responsible for the administration of the regions, the counties and the municipalities. They execute the plans and programs concerning the economic and social development of their respective territories, in conformity with the law.

The Local Communities contribute to realize the governmental functions and objectives, according to this Fundamental Law and they cannot be created, modified or abolished otherwise than by law.

An Ordinance determines the competences, the functioning, the jurisdiction and the composition of the Local Communities.

Chapter II The Councils of the People

155. - The Councils of the People are the smallest local administrative and economic entities, intended to execute, in the territory of their jurisdiction, the plans to develop and diversify agriculture, livestock, artisanal fishing and the programs concerned with rural development.

The Councils of the People watch over the respect for the authenticity of the African Culture of the people of Equatorial Guinea in order to preserve, in its original form, the traditional culture in matters of family organization, adapting it to the new social and legal structures, imposed by modern life. The functioning, the attributions and the

composition of the Councils of the People, are defined by the law.

TITLE XI

THE REFORM OF THE FUNDAMENTAL LAW

156. - After a positive advice of the Council of State and an affirmative vote of three-quarters of its members, the House of Representatives of the People can approve the partial amendments, proposed by the Government for the reform of this Fundamental Law.

157. - The republican and democratic system of the sovereign State of Equatorial Guinea, the national unity and the territorial integrity cannot be the subject of any reform.

TRANSITORY PROVISIONS

Firstly: Before the members of the House of Representatives of the People are elected and the House enters into the exercise of its functions, the President of the Republic, assisted by the Council of Ministers, will, as a matter of law, assume the legislative power in conformity with this Fundamental Law.

Secondly: Until a real body of professional judges and magistrates is formed in Equatorial Guinea, as referred to in the second paragraph of article 147 of this Fundamental Law, the President of the Republic freely appoints and dismisses the officials in the said functions.

As long as the situation of the preceding paragraph prevails, the First Magistrate of the Nation can solicit the revision of the judicial decisions of the Supreme Court of Justice.

Thirdly: The transfer of power of the Government of the Supreme Military Council to the Constitutional Government will take place in the course of a solemn and public ceremony. In the meantime, the outgoing Government will continue to assure the normal functioning of the Administration.

ADDITIONAL PROVISIONS

In order to bring into operation all the institutions provided for by this Fundamental Law and to assure the total performance of the process of democratization, the President of the Republic is Obiang Nguema Mbasogo, author and executor of the glorious act of August 3, 1979, who returned to the people their true liberty and who is at the origin of the democratization of the country.

Seven years after the adoption of this Fundamental Law, the provisions of article 89 will be applied.

DEROGATORY PROVISIONS

All provisions contrary to this Fundamental Law are repealed.

FINAL PROVISION

This Fundamental Law enters into effect on the date of its promulgation by the President of the Supreme Military Council, and after its approval by referendum.