

CONSTITUTIONAL DOCUMENTS AVAILABLE for
THE REPUBLIC OF GUINEA

[Fundamental Law of the Second Republic of Guinea, 1990](#)

SECOND REPUBLIC OF GUINEA

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FUNDAMENTAL LAW
December 1990

PREAMBLE

By its vote on September 28, 1958, the People of Guinea opted for liberty and constituted, on October 2, 1958, a sovereign State: THE REPUBLIC OF GUINEA.

Drawing lessons from its past and from the political change which occurred on April 3, 1984,

THE PEOPLE OF GUINEA,

Proclaim:

— The equality and solidarity of all nationals without distinction of race, ethnicity, sex, origin, religion and opinion.

— Its adherence to the ideals and principles, rights and duties established in the United Nations Charter, the Universal Declaration of the Rights of Man, the Charter of the Organization for African Unity and the African Charter of the Rights of Man and Peoples.

Affirm solemnly its fundamental opposition to any regime founded upon dictatorship, injustice, corruption, nepotism or regionalism.

Reaffirm:

— Its willingness to achieve, through national unity and reconciliation, a State founded on the primacy of rights and respect for democratically established law;

— Its willingness to establish amicable relations and cooperation with all peoples of the world on a foundation of principles of equality, respect for national sovereignty, territorial integrity and reciprocal interests;

— Its attachment to the cause of African Unity, of the sub-regional integration of the continent.

Free to determine its institutions, the people of Guinea adopt the present **Fundamental Law**.

TITLE I
SOVEREIGNTY AND THE STATE

Article I

Guinea is a unitary, indivisible, secular, democratic and social Republic. It shall assure equality before the law for all citizens, without distinction of origin, race, ethnicity, sex, religion and opinion. It shall respect all beliefs.

The official language of the Republic of Guinea is French. The State shall assure the promotion of the cultures and the languages of the people of Guinea.

The flag is composed of three equal vertical stripes of the color RED, YELLOW AND GREEN.

The national anthem is “LIBERTY.”

The motto of the Republic is “WORK—JUSTICE—SOLIDARITY.”

Its principle is: GOVERNMENT OF THE PEOPLE, BY THE PEOPLE AND FOR THE PEOPLE.

Article 2

National sovereignty shall belong to the people who exercise it through their elected representatives and by way of referendum.

No fraction of the people, nor any individual shall ascribe to itself its exercise.

Suffrage shall be universal, direct, equal and secret.

Within the conditions determined by law, all adult Guinean citizens of either sex possessing their civil and political rights, shall be voters.

Article 3

The political parties shall cooperate in the political education of the citizens and in the expression of the vote. Only the parties introduce candidates in national elections.

They shall be established over the whole of the national territory.

They shall not identify with a race, an ethnic group, a religion or a territorial unit.

They shall respect equally the principles of national sovereignty and democracy, the integrity of the national territory and public order.

An organic law shall determine the conditions under which political parties form and conduct their activities. It may also fix, for a given time, the maximum number of parties capable of being formed. It shall specify the conditions in which a party which disregards the provisions of the preceding paragraphs will no longer be considered legally constituted.

Article 4

The law shall punish any act of racial, ethnic or religious discrimination, or any regionalistic propaganda, which could have a grave effect on national unity, the security of the State, the territorial integrity of the Republic or the democratic functioning of its institutions.

TITLE II LIBERTIES, DUTIES AND FUNDAMENTAL RIGHTS

Article 5

The person and the dignity of man are sacred. The State has the duty to respect and protect them.

The rights and liberties enumerated hereinafter are inviolable, inalienable and inderogable. They are the foundation of all humanity and guarantee peace and justice in the world.

Article 6

Man has the right to the free development of his personality.

He has the right to life and physical integrity. No one shall be subjected to torture or cruel, inhuman or degrading treatments or punishments.

Article 7

He shall be free to believe, to think and to profess his religious faith, his political or philosophical opinions.

He shall be free to express, to manifest and to diffuse his ideas and opinions by speech, by writing and by image.

He shall be free to instruct and inform himself from sources available to all.

Article 8

All human beings shall be equal before the law. Men and women have the same rights. No one shall be favored or disadvantaged by reason of his birth, his race, his ethnicity, his language, his political, philosophical or religious beliefs and opinions.

Article 9

No one shall be arrested, detained or condemned except under conditions and methods specified by law. Everyone shall have the inderogable right to present himself before a judge to assert his rights before the State and its agents.

All citizens shall have the right to a just and equitable trial, in which the right to present a defense is guaranteed.

The law shall establish penalties necessary and proportionate to the crimes for which they are justified.

Article 10

All citizens have the right to demonstrate and to march.

All citizens have the right to form associations and societies to collectively exercise their rights and their political, economic, social or cultural activities.

All citizens have the right to settle and to circulate on the territory of the Republic, to freely enter and leave it.

Article 11

Whoever is persecuted by reason of his political, philosophical or religious opinions, his race, his ethnicity, his intellectual, scientific or cultural activities, in the defense of liberty has the right of asylum on the territory of the Republic.

Article 12

The domicile is inviolable. It shall only be violated in the case of grave and imminent danger, to prepare to face a common danger or to protect the lives of persons. All other violations, all intrusions shall only be ordered by a judge or by an authority designated by law in the forms prescribed by this [Constitution][*celle-ci*].

The secrecy of correspondence and communications is inviolable. Every individual shall have the right to the protection of his private life.

Article 13

The right to private property shall be guaranteed. Nothing shall be expropriated if it is not in the legally constituted interest of all, and subject to a just and prior compensation.

Article 14

The free exercise of religious sects shall be guaranteed. Religious institutions and communities freely create and administer themselves.

They shall not be subject to the tutelage of the state.

Article 15

Man has the right to health and physical well-being. The State shall have the duty to promote the public health and to fight against epidemics and social plagues.

Article 16

Marriage and the family which constitute the natural foundation of life in society, shall be protected and promoted by the State.

Parents have the right and the duty to assure the education and the physical and moral health of their children. Children owe care and assistance to their parents.

Article 17

Youths shall be particularly protected from exploitation and moral abandon.

The elderly and handicapped shall benefit from the assistance and protection of society.

Article 18

The right to work is recognized for all. The State shall create the necessary conditions for the exercise of this right.

No one shall be harassed in his work on account of his sex, his race, his ethnicity or his opinions.

Each one has the right to belong to the trade union of his choice and defend his rights through trade union activities. Each worker has the right to participate through his representatives in the determination of his working conditions.

The right to strike shall be recognized. It shall be exercised within the framework of the laws that govern it. It shall not in any case abridge the freedom to work.

The law shall fix conditions for the assistance and protection to which all workers shall have a right.

Article 19

The people of Guinea shall freely and sovereignly determine its institutions and the economic and social organization of the Nation.

They shall have an inalienable right to its resources. These shall benefit all the citizens in an equitable fashion.

They shall have the right to the preservation of their heritage, culture and environment.

They shall have the right to resist oppression.

Article 20

Each citizen shall have the duty to conform to the Fundamental Law, to laws and to regulations.

Each citizen shall have the duty to participate in elections, to promote tolerance, democratic values and to be loyal towards the nation.

Each citizen shall have the duty to respect the honor and the opinions of others.

Each citizen shall contribute taxes according to his means and shall fulfill his social obligations under conditions determined by law.

Each citizen shall have the sacred duty to defend the fatherland.

Article 21

The State shall promote the well-being of its citizens.

It shall foster pluralism of opinions and sources of information.

It shall assure the security of each person, and shall watch over the maintenance of public order.

It shall assure the continuity of institutions and public services, in respect of the Fundamental Law.

It shall guarantee equal access to public employment.

It shall favor national unity and African Unity. It shall cooperate with other States to strengthen independence, peace, mutual respect and friendship among peoples.

It shall assure the education of the youth, which is obligatory. It shall create conditions and institutions which permit each child to develop. It shall guarantee freedom of education, and register private schools.

Article 22

The law guarantees to all the exercise of fundamental rights and liberties. It shall determine the conditions under which they shall be exercised.

The law shall only set limits on these rights and liberties which are indispensable to the maintenance of public order and democracy.

Organizations whose goals or activities are contrary to laws or that manifestly disturb the public order can be dissolved.

Article 23

Whoever occupies a public post or performs a public function shall be accountable for his activity and shall respect the principle of neutrality in public service. He shall not use his functions for ends other than those in the interest of all.

TITLE III

THE PRESIDENT OF THE REPUBLIC

Article 24

The President of the Republic shall be elected by direct universal suffrage.

The length of his term shall be five years, renewable only once.

Article 25

The balloting for the election of the President of the Republic takes place forty-five days at most and no fewer than thirty days before the expiration of the term of the incumbent President of the Republic.

In the event that a second round of voting takes place, it shall be set for the fourteenth day after the first round.

The President of the Republic shall fix the date of balloting at least sixty days before the actual balloting.

Article 26

Each candidate for the Presidency of the Republic shall be of Guinean nationality, in possession of his civil and political rights and be at least forty and no more than seventy years old.

Candidacies shall be entered with the Registry of the Supreme Court at least forty days and no later than sixty days before the date of the elections. No candidacy shall be accepted if it is not presented by a legally constituted political party. Each political party can present only one candidacy.

Thirty-nine days before balloting, the Supreme Court shall close and publish the list of candidates. The voters shall then be summoned by decree.

Article 27

In the case of the death or permanent disability, as verified by the Supreme Court, of a candidate appearing on the list mentioned in Article 26, the Supreme Court shall decide whether to reopen the time during which new candidacies may be registered. In this case, a new election date shall be set under the conditions specified in Article 25.

Article 28

The electoral campaign shall open thirty days before the election and close on the eve of the election at midnight. In the event of a second round of balloting, the electoral campaign shall open the day after the announcement of the results of the first round and close at midnight on the eve of the second ballot.

The Supreme Court shall ensure the regularity of the electoral campaign and that all candidates have equal access to the means of propaganda, under conditions determined by an organic law.

Article 29

The candidate who obtains the absolute majority of the ballots cast is elected.

In the case where, at the close of the first round, no candidate has attained this majority, a second round of voting shall ensue under conditions specified in Article 25. Only the two candidates, after the withdrawal of more favored candidates, who gathered the most votes during the first round shall be presented.

The Supreme Court shall ensure the regularity of voting.

Article 30

If no dispute concerning the regularity of the electoral process has been filed with the Registry of the Supreme Court by one of the candidates within eight days after the results of the

election have been made public, the Supreme Court shall proclaim that the President of the Republic has been elected.

In the case of a dispute, the court shall pronounce a verdict within three days of commencing consideration of the dispute. The Court's decision shall result in the proclamation or annulment of the results of the election.

In the case of annulment of the election, new elections shall be organized within sixty days.

Article 31

The President-elect of the Republic shall be installed in office on the day of the expiration of the term of his predecessor.

In the case where, following the annulment of an election, no candidate is proclaimed elected on that date, the incumbent President stays in office until the proclamation of the final results.

In the case of death or permanent disability of the President-elect of the Republic before his installment in office, new elections shall be organized within sixty days. The incumbent President shall remain in office until the proclamation of the election results.

Notwithstanding the provisions of Article 34, in case of the death or the permanent disability of the incumbent President before the installment of the President-elect, the President-elect shall immediately assume the office.

The President of the Republic shall be installed in office after taking an oath before the Supreme Court. By this oath, he shall swear to scrupulously respect and enforce the provisions of the Fundamental Law and other laws, to defend constitutional institutions, territorial integrity and national independence.

Article 32

The President of the Republic shall be protected against offenses, vilification and slander under conditions which the law shall determine.

Article 33

The office of the President of the Republic shall be incompatible with any other public or private function, even an elected one. The President shall cease, in particular, the exercise of any responsibilities at the center of a political party.

Article 34

In the case of vacancy of the office of the President of the Republic due to the death or resignation of the President, or any other permanent disability, the President of the National Assembly shall assume the office or, in the case of his inability to assume office, by one of the Vice-Presidents of the National Assembly by order of precedence.

The vacancy shall be constituted by the Supreme Court, convened by the President of the National Assembly or, in the event he is unable to do so, by one of his Vice-Presidents.

The maximum duration of the term of the interim President shall be sixty days. The vote for the election of the new President of the Republic shall take place, except in the case of force majeure as constituted by the Supreme Court, at least thirty-five days and no more than fifty days after the opening of the vacancy.

Article 35

The interim President's duties and rights shall include all of those of the President of the Republic, except the right of recourse to a referendum, to dissolve the National Assembly, to revise the Fundamental Law and to exercise the right of pardon.

Article 36

Former Presidents of the Republic shall rank according to protocol immediately below the President of the Republic, in order of the seniority of their mandates, and above the President of the National Assembly.

They sit by right on the Economic and Social Council.

They shall receive material benefits and protection by security measures defined by an organic law.

Article 37

The President of the Republic is the guardian of the Fundamental Law. He shall assure the regular functioning of public authorities and the continuity of the State. He shall determine and conduct the policy of the nation.

Article 38

The President of the Republic shall assure the execution of laws and prescribe regulatory power which he exercises by decree.

Article 39

The President of the Republic shall appoint Ministers who shall assist him and shall be responsible only to him. He can dismiss them.

He shall fix by decree the attributes of each Minister. He may delegate certain of his powers to [each of them].

Article 40

The President of the Republic shall appoint all civil servants. He shall direct the Administration.

Article 41

The President of the Republic is the defender of national independence and territorial integrity.

He shall be responsible for national security. He is the Chairman of the Supreme Council for National Defense.

He is the Commander and Chief of the Armed Forces. He shall appoint all military personnel.

Article 42

The President of the Republic accredits the Ambassadors and special envoys to foreign powers.

The Ambassadors and special envoys of foreign powers shall be accredited to him.

Article 43

The President of the Republic exercises the power to grant pardons.

Article 44

The President of the Republic can address messages to the nation.

He shall not participate in the debates of the National Assembly.

When he addresses a message to the National Assembly, it shall be read by a Minister.

Article 45

The President of the Republic can, after having consulted the President of the National Assembly, submit to referendum any bill pertaining to the organization of public authorities, concerning fundamental rights and freedoms or economic and social action of the State, or purporting to authorize the ratification of a treaty.

He shall, if the National Assembly demands by a resolution adopted by two thirds of its members, submit to referendum all bills pertaining to the organization of public authorities or concerning fundamental rights and freedoms.

Before summoning voters by decree, the President of the Republic shall obtain the opinion of the Supreme Court on the bill's or proposition's conformity with the Fundamental Law. In the case of nonconformity, it shall not proceed to referendum.

The Supreme Court shall ensure the regularity of the operations of the referendum. When the referendum ends in the adoption of the bill or proposition, it shall be promulgated under the conditions specified in Article 62.

TITLE IV THE NATIONAL ASSEMBLY

Article 46

The representative assembly of the people of Guinea shall carry the name National Assembly. Its members shall carry the title of Deputy to the National Assembly.

Article 47

The Deputies to the National Assembly shall be elected by direct universal suffrage.

The duration of their term shall be five years, except in the case of dissolution. They may be reelected.

Article 48

No one shall be a candidate if he is not presented by a legally constituted political party.

The conditions of eligibility, rules for ineligibility and incompatibilities shall be fixed by an organic law.

Article 49

The Supreme Court shall ensure the regularity of balloting and the electoral campaign which precedes it. It shall receive and judge any eventual contestations.

Article 50

One-third of the Deputies shall be elected by majority vote on a single name ballot in one round of voting. An organic law determines the electoral districts.

Two-thirds of the Deputies are elected by a national list vote, with proportional representation. The seats not filled by the national quotient [the number of votes cast divided by the number of seats—*trans.*] shall be given to the next strongest candidates.

Article 51

An organic law shall fix the number of Deputies and the amount of their compensation.

It shall also determine the conditions in which persons called upon to assure, in the case of vacancy, the replacement of Deputies until the general renewal of the Assembly shall be elected.

Article 52

No member of the National Assembly shall be prosecuted, investigated, arrested, detained or tried because of opinions or votes expressed by him while exercising his functions as Deputy.

No deputy shall be prosecuted or arrested on penal grounds while the National Assembly is in session except with the Assembly's authorization, except in the case of *flagrante delicto*.

No deputy can be arrested or detained while the Assembly is not in session without the authorization of the office of the National Assembly except in the case of *flagrante delicto*, prosecutions authorized by the Assembly or final condemnations.

The preventive detention or prosecution of a Deputy shall be suspended if the Assembly requires it.

Article 53

The President of the National Assembly shall be elected for the duration of the legislature.

Article 54

The regulation of the National Assembly shall be fixed by an organic law which shall determine:

- the composition and the rules of operation of the office of the Assembly;
- the number, the method of designation, the composition and the powers of permanent committees;
- the method of creation of temporary special commissions;
- the organization of administrative offices placed under the authority of the President of the Assembly;
- the rules concerning the progression of debates, when to speak, methods of voting and the disciplinary system governing Deputies.
- in general, all rules concerning the functioning of the National Assembly within the framework attributed to it by the Fundamental Law.

Article 55

The National Assembly shall meet, as of right, in ordinary sessions twice a year.

The first session shall open on April 5 and shall last no longer than thirty days.

The second session shall open on October 5 and shall last no longer than sixty days.

If April 5 or October 5 is a holiday, the opening of the session shall take place on the following work day;

The budgetary act for the year shall be examined during the second ordinary session of the preceding year.

Article 56

The National Assembly shall meet in extraordinary session, either upon the initiative of the President of the Republic or at the request of the majority of the members of the Assembly, to discuss a fixed agenda.

The extraordinary session shall close as soon as the National Assembly has fully addressed the agenda for which it was convened. The duration of the session shall not exceed fifteen days.

The Deputies shall not request a new extraordinary session before the end of the month following the closing of a session.

Except in cases where the National Assembly meets as of right, the extraordinary sessions shall be opened and closed by decree.

Article 57

All imperative mandates shall be void.

The Deputies' right to vote is personal. The organic law may, in exceptional circumstances, authorize the delegation of a vote. In that case, no one shall exercise more than one proxy.

Article 58

The sessions of the National Assembly shall be public. At any time, it can by a vote of a majority of its members, decide to hold a session behind closed doors.

The entire record of the debates shall be published in the Official Journal.

TITLE V RELATIONS BETWEEN THE PRESIDENT OF THE REPUBLIC AND THE NATIONAL ASSEMBLY

Article 59

Subject to the provisions of Article 45, the National Assembly alone shall pass laws.

The law shall only be prospective.

The law shall fix rules concerning:

— guarantees of liberties and fundamental rights, the conditions under which they are exercised and the limitations imposed on them;

— civil rights, nationality, the state and the capacity of persons, matrimonial systems, inheritances and gifts;

— the constraints imposed for national defense on the person and property of citizens;

— the determination of infractions, penalties which are applicable to them, penal procedure, amnesty, the creation and composition of areas of jurisdiction and the regulation of magistrates;

— the bases, rates and methods of collection and regulation of taxes of all kinds, and obligatory contributions;

— the electoral system of the National Assembly in all that is not indicated by the Fundamental Law, the electoral system of councilors elected from the territorial units;

- fundamental guarantees accorded to civil servants and military personnel of the State;
- the system for the minting and propagation of money;
- the creation of categories of public establishments;
- expropriation, nationalization, or privatization of enterprises;

The law shall determine the fundamental principles:

- of the general organization of the national defense and the maintenance of public order;
- of the free administration of the territorial units, of their jurisdiction and their resources;
- of education;
- of a system of private property, real rights and civil and commercial obligations;
- of the right to work, of the right to unionize and of social protection;
- of cultural development and of the protection of the patrimony and the environment;
- of budgetary laws determining each year the totality of the resources and the obligations of the State, in the conditions and under the reservations specified by an organic law;
- of laws of a plan fixing the pluri-annual goals of development of the nation and the projects of the State.
- of laws of a program determining by sector the objectives of economic and social action of the State.

Article 60

Matters other than those which are of the domain of the law shall have a regulatory character.

When the provisions of a law intervene in these other matters, they may be modified by decree after the Supreme Court has declared their regulatory character.

Article 61

The National Assembly shall vote upon budgetary acts according to the conditions specified by an organic law.

Budgetary acts shall be registered with the office of the National Assembly at the latest the day of the opening of the second ordinary session.

The National Assembly shall take at most sixty days to vote on the budgetary act. If for reasons of force majeure, the President of the Republic was not able to register the act within the given time, the ordinary session shall be immediately followed by right by an

extraordinary session which shall continue at most an amount of time equal to the time necessary to complete the sixty day period beginning the day the law was registered.

If, at the end of these periods, the budgetary act has not been adopted, it may be effectuated by decree, in accordance with amendments passed by the National Assembly and accepted by the President of the Republic.

If, in accordance with the procedure delineated above, the budgetary act cannot be adopted before its intended effectuation, the President of the Republic shall demand out of urgency the authority from the National Assembly to continue revenue raising. This shall be declared within two days. The President of the Republic shall be authorized to recommence by decree the functional budget of the preceding year.

The Supreme Court shall assure the regulation a posteriori of the execution of budgetary acts. It shall make appropriate reports to the National Assembly.

Article 62

After its adoption by the National Assembly, the law shall be transmitted to the President of the Republic without delay.

The President of the Republic shall promulgate the law within ten days. The period shall run eight full days after the transmission of the adopted law.

Article 63

In the ten days fixed for promulgation, the President of the Republic can, by message, demand a new deliberation of the National Assembly which cannot be refused.

The delay period of promulgation is thereby suspended.

The law shall only be voted upon a second time if two thirds of the members of the National Assembly are in favor. It shall take priority on the day's agenda if the majority of the members of the National Assembly demand it.

Article 64

In the full eight days which follow the adoption of a law, the President of the Republic or a tenth of the Deputies can convene the Supreme Court for close scrutiny to ensure the conformity of the law with the Fundamental Law.

The delay period of promulgation is thus suspended.

The Supreme Court shall decide within the thirty days that follow its convocation or, if the President of the Republic makes the demand, in eight days. The decision of the Supreme Court shall be published in the Official Journal.

A disposition of a law declared nonconforming to the Fundamental Law shall not be promulgated nor applied. The decision of the Supreme Court shall be binding on all.

The delay period of promulgation begins to run from the date of publication of the decision of the Supreme Court which declares the law in conformity with the Fundamental Law.

Article 65

In the case of non-promulgation of a law by the President of the Republic within the fixed delay period, the law shall be effective.

Article 66

The National Assembly can enable the President by a law to take measures normally relegated to the domain of the law, for a specified period of time and objectives that it specifies.

Within the time limits and domain fixed by the enabling act, the President of the Republic can make ordinances which shall be effective upon their publication, but become void if a bill of ratification is not presented before the National Assembly before the date fixed by the enabling act.

After this last date, they may only be modified by law. They retain at all times their regulatory value until their ratification.

They may be amended at the time of the vote of the law of ratification.

Article 67

The laws qualified as organic laws by the present Fundamental Law shall be passed and modified by a two thirds majority of the members composing the National Assembly.

They shall not be promulgated if the Supreme Court, obligatorily seated by the President of the Republic, has not declared their conformity to the Fundamental Law.

The National Assembly shall not enable the President of the Republic to take by means of ordinance measures which are subject to an organic law.

Article 68

The initiation of laws belongs concurrently to the President of the Republic and to the Deputies of the National Assembly.

Article 69

The President of the Republic and the Deputies of the National Assembly shall have the right of Amendment. The Amendments of the President of the Republic shall be presented by a Minister.

The propositions and Amendments formulated by the Deputies shall not be received if they do not fall within the domain of the law, or if they enter into the areas of competence delegated to the President of the Republic in application of Article 66 for the duration of the delegation.

They shall not be receivable when their adoption would have for a consequence either the diminishment of public resources, or the creation or aggravation of a public duty except in the case where compensatory gains are provided.

Article 70

In the case of disagreement between the National Assembly and the President of the Republic, represented by a Minister, on the acceptability of an Amendment, the Supreme Court shall pronounce within a period of eight days, at the demand of one or the other.

Article 71

The National Assembly shall establish its agenda.

At any time, the President of the Republic can demand the inscription, by priority, to the agenda, a bill or proposition of law or a declaration of general policy. This inscription is by right.

The duration of the texts inscribed to the agenda by priority shall not exceed half of the duration of the ordinary session.

Article 72

The Ministers shall be heard at any time by the National Assembly and by its commissions.

They may be joined by collaborators of their choice.

Article 73

The Deputies can ask the Ministers, who are obligated to respond, written and oral questions with or without debate. The responses given shall not be followed by a vote. They shall be published in the Official Journal.

One meeting per week shall be reserved during the course of each extraordinary session, for oral questions without debate.

The National Assembly can designate at its center commissions of inquiry. The regulations of the Assembly shall determine the powers of these commissions.

They shall be created by law, which shall define their composition, functioning and objective, and which shall specify their powers.

Article 74

The state of siege, like the state of urgency, shall be decreed by the President of the Republic, after consultation with the President of the National Assembly and the President of the Supreme Court. These consultations shall be published in the Official Journal.

The President of the Republic can take, by ordinance, any measure necessary for the defense of territorial integrity and for the reestablishment or maintenance of public order.

The National Assembly shall meet by right, if it is not in session. It may not be dissolved.

The decree proclaiming the state of siege or the state of urgency shall cease to be valid after twelve days, unless the National Assembly, convened by the President of the Republic authorizes the prorogation for a period which it shall fix.

The ordinances taken to effectuate the state of siege or state of urgency cease to be valid at the end of this period.

Article 75

The state of war shall be declared by the President of the Republic after being authorized by the National Assembly by a two thirds majority of its members.

Article 76

In the case of persistent disagreement between the President of the Republic and the National Assembly on fundamental questions, the President of the Republic can, after having consulted the President of the National Assembly, pronounce the dissolution of the Assembly.

The dissolution shall not be pronounced before the third year of the legislature and during the course of the same presidential term, more than once.

New elections shall take place within the sixty days that follow the dissolution.

If these return to the National Assembly a majority of Deputies favorable to the position adopted by the former majority upon the question which provoked the dissolution, the President of the Republic shall concede.

The National Assembly shall meet of right in the ten days following its election.

TITLE VI

TREATIES AND INTERNATIONAL ACCORDS

Article 77

The President of the Republic negotiates international engagements.

Peace treaties, commercial treaties, treaties or accords relative to international organization, those which engage the finances of the State, those which modify provisions of a legislative nature, those which are relative to the state of persons, those which encompass cession, exchange or adjunction of territory, shall only be ratified or approved by a law.

No cession, no exchange, no adjunction of territory shall take place without the consent of the populations concerned.

Article 78

If the Supreme Court, convened by the President of the Republic or a Deputy has declared that an international engagement contains a clause contrary to the Fundamental Law,

authorization to ratify or approve it shall not intervene until after the revision of the Fundamental Law.

A law authorizing the ratification or approval of an international engagement shall not become effective when it has been declared nonconforming to the Fundamental Law.

Article 79

Treaties or accords regularly approved or ratified shall have from their date of publication a superior authority to that of laws under the reservation of reciprocity.

TITLE VII JUDICIAL AUTHORITY

Article 80

The judicial authority is independent of the executive authority and legislative authority.

It shall be exercised exclusively by the Courts and Tribunals.

Article 81

Magistrates shall only be submitted, in the exercise of their functions, to the authority of the law. Magistrates of the bench shall be irremovable under conditions determined by law.

Magistrates shall be named by the President of the Republic, those of the bench after consultation of the Superior Council of the Magistrate.

The status, the career, guarantees of independence of Magistrates shall be fixed by an organic law.

Article 82

The composition, the functioning, the area of competence and the organization of the Superior Council of the Magistrate shall be fixed by an organic law.

When seated as a disciplinary group, the Superior Council of the Magistrate shall be presided over by the President of the Supreme Court.

Article 83

The Supreme Court shall have the authority to declare the constitutionality of laws and international engagements, under the conditions established in Articles 64, 67 and 78.

It shall have the authority to determine in first and last resort any recourse developed against the acts of the President of the Republic taken in application of Articles 38, 60 and 74, as well as recourse against ordinances taken in application of Article 66, under the reservation of their ratification.

It shall have the authority to determine in first and last resort any recourse developed against the elections to the National Assembly and to local assemblies.

It shall have the authority over actions on appeal.

The other areas of competence of the Supreme Court, not specified by the Fundamental Law and the procedure followed before it shall be determined by an organic law.

Article 84

The position of membership on the Supreme Court is incompatible with any other public or private function, especially elective.

Except in the case of flagrante delicto, the Magistrates of the Supreme Court shall only be charged, arrested, detained, or judged in a penal matter with the authorization of the general assembly of the Supreme Court. This body shall attribute competence to the jurisdiction which it so chooses.

The composition of the Supreme Court, status, incompatibilities and guaranties of independence of its members shall be fixed by an organic law.

TITLE VIII

THE HIGH COURT OF JUSTICE

Article 85

The High Court of Justice shall be composed of members elected by the National Assembly, at its center, at the beginning of each legislature.

It shall be presided over by a Magistrate elected by the general assembly of the Supreme Court.

An organic law shall fix the number of members and the organization of the High Court of Justice, as well as rules of its operation and the procedure followed before it.

Article 86

The President of the Republic shall be responsible for the acts accomplished in the exercise of his functions only in the case of high treason.

He shall only be accused by the National Assembly deciding by a three-fifths majority in a secret vote. He shall be judged by the High Court of Justice. It may decide when the President of the Republic is accused, that the President of the National Assembly shall exercise his interim powers until the outcome is determined.

The Ministers shall be penally responsible for acts accomplished in the exercise of their functions and qualified as crimes or misdemeanors at the moment where they were committed. The procedure defined above shall be applicable to them.

The High Court of Justice shall be bound by the definition of crimes and misdemeanors as well as the determination of penalties such that they result from the law in effect at the moment where the acts were committed.

TITLE IX THE ECONOMIC AND SOCIAL COUNCIL

Article 87

The Economic and Social Council shall give its opinion on questions which are sent to it by the President of the Republic or the National Assembly.

It shall be competent to examine bills or propositions of law as well as decree projects of an economic and social character which shall be submitted to it as well as budgetary proposals.

It shall obligatorily review bills and programs of an economic character. It can, on its own initiative and in the form of a recommendation, focus the attention of the President of the Republic and of the National Assembly on reforms of an economic or social character which appear to it to conform with or contrary to the general interest.

Upon the demand of the President of the Republic or the National Assembly, it shall designate one of its members in order to present before the commissions of the National Assembly, the advice of the Council on the bills or propositions of law which were submitted to it.

An organic law shall fix the composition and the operations of the Economic and Social Council.

TITLE X THE TERRITORIAL UNITS

Article 88

The territorial units of the Republic shall be the Prefectures, the Urban Communes and the Rural Communities of development. The creation of territorial units, the reorganization of existing territorial units shall be according to law.

Article 89

The territorial units shall freely administer themselves by councils elected, under the regulation of a delegate of the State who has the national interests and respect of the laws for his duty.

Article 90

The law shall organize decentralization by the transfer of areas of competence, of resources and means to the territorial units.

TITLE XI REVISION OF THE FUNDAMENTAL LAW

Article 91

The initiative of the revision of the Fundamental Law belongs to both the President of the Republic and to the Deputies.

The bill or proposition of revision adopted by the National Assembly shall only become definitive after having been approved by referendum.

At any time, the bill of revision shall not be presented to referendum when the President of the Republic decides to submit it only to the National Assembly. In this case the bill of revision shall be approved by a two thirds majority of the members of the National Assembly. It shall consist of the same proposition of revision which had received the approval of the President of the Republic.

No procedure of revision shall be undertaken or pursued in the case of occupation of a part or the entire national territory, in the case of state of urgency or a state of siege.

The republican form of government of the State, the principle of secularity and the principle of separation of powers shall not be the object of revision.

TITLE XII

TEMPORARY DISPOSITIONS

Article 92

The elections specified in Articles 24 and 47 shall take place during a transitory period which shall not exceed five years counting from the adoption of the present Fundamental Law by the People of Guinea by way of referendum.

Article 93

While awaiting the effectuation of the present Fundamental Law, the Transitional Council of National Reparation shall replace the Military Committee of National Reparation (CMRN) in its attributions.

In this title it is, notably, invested with the legislative power.

An ordonnance shall determine the composition, organization, the rules of operation and the areas of competence of the CTRN (Transitional Council of National Reparation).

Article 94

The laws necessary to put in place, institutions and, until this emplacement, for the operation of public authority, shall be adopted by the Transitional Council of National Reparation and promulgated by the President of the Republic in the period fixed in Article 92.

During this period, the Transitional Council of National Reparation can equally take measures in all matters which it deems necessary to the life of the nation, to the protection of citizens or the safeguard of liberties.

Article 95

The provisions of Article 3 shall become effective one year before the date fixed, in application of Article 92 for the elections. The number of political parties susceptible to being constituted shall be limited to two until the intervention of an organic law modifying this number.

The provisions of Articles 64, 67 paragraph 2, 78 and 83 shall become effective with the installation of the Supreme Court. Those relative to the Superior Council of the Magistrate and to the Economic and Social Council shall become effective with the installation of these institutions. These installations shall intervene at dates fixed by the Transitional Council of National Reparation and, no matter what, before the end of the transitory period.

Article 96

The other provisions of the present Fundamental Law shall become effective one year from its adoption.