

# CONSTITUTION OF THE GABONESE REPUBLIC

*Adopted on 26 March 1991,*

*Amended on 22 April 1997*

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## PREAMBLE

The Gabonese people, conscious of their responsibility before history, animated by the willingness to assure their independence and their national unity, to organise the common life according to the principles of national sovereignty, multi-party democracy, social justice, and republican legality;

Solemnly affirm their adherence to human rights and the fundamental liberties such as they result from the Declaration of the Rights of Man and the Citizen of 1789 and the Universal Declaration of Human Rights of 1948, consecrated by the African Charter on Human and Peoples' Rights of 1981, and by the National Charter of Liberties of 1990;

Solemnly proclaim their adherence to profound and traditional social values, to the cultural patrimony, material and spiritual, to the respect of liberties, rights and duties of the citizen.

In virtue of these principles and of those of the sovereignty of the people, they adopt the present Constitution.

## PRELIMINARY TITLE: PRINCIPLES AND FUNDAMENTAL RIGHTS

### Article 1

The Gabonese Republic shall recognise and guarantee the inviolable and imprescriptible human rights which necessarily constrain public powers.

- 1) Each citizen has the right to the free development of his person, but respecting the rights of others and public order. No one shall be humiliated, mistreated, or tortured, especially when he is in a state of arrest or imprisonment.
- 2) Freedom of conscience, thought, opinion, expression, communication, and the free practise of religion shall be guaranteed to all, under the reservation of respect of public order.
- 3) Freedom of movement in the interior of the territory of the Gabonese Republic, to exit it and to re-enter it, shall be guaranteed to all Gabonese citizens, under the reservation of respect of public order.
- 4) The right to a defence, in the judicial process, shall be guaranteed to all; preventative detention shall not exceed the time allocated by the law.
- 5) The secrecy of correspondence, and postal, telegraphic, telephonic, and telematic communications shall be inviolable. Restriction of this inviolability shall only be ordered in application of the law, for reasons of public order and the security of the state.
- 6) The limits of the usage of information systems for the safeguard of man, the personal and familial privacy of persons, and the full exercise of their rights, shall be fixed by law.
- 7) Each citizen shall have the right to work and the right to obtain employment. No one shall be impaired in his work by reason of his origins, his sex, his race, or his opinions.
- 8) The state, subject to its resources shall guarantee to all, notably to the child, the mother, the handicapped, to aged workers and to the elderly, the protection of health, social security, a preserved natural environment, rest and leisure.
- 9) Every Gabonese citizen sojourning or residing abroad shall benefit from the protection and the assistance of the state, under conditions fixed by national law or international accords.
- 10) Every person, individually as well as collectively, shall have the right to property. No one shall be deprived of his property, except when public necessity, legally declared, demand it and under the condition of a just and prior compensation; however, the expropriations of immovables engaged in for the cause of public utility, for the insufficiency or absence of productive use, and regarding unregistered properties, shall be regulated by law.
- 11) Every Gabonese shall have the right to freely fix his domicile or residence in any area of the national territory and to there exercise all activities, under the reservation of respect of public order and of the law.

12) The domicile is inviolable. It shall only be ordered to be searched by a judge or by other authorities designated by the law. Searches shall only be executed in the forms provided for herein. Measures touching upon the inviolability of the domicile or limiting it shall only be taken in order to prepare for collective dangers or to protect public order from imminent menaces, notably in order to fight against the risks of epidemic or in order to protect persons in danger.

13) The right to form associations, political parties or formations, syndicates, societies, establishments for social interests as well as religious communities, shall be guaranteed to all under conditions fixed by law; religious communities shall conduct and administrate their affairs in an independent manner, under reserve of respect of the principles of national sovereignty, public order and the preservation of the moral and mental integrity of the individual. Political associations, parties or formations, syndicates, societies, establishments for social interests as well as religious communities of which the activities are contrary to law, or to the good relations of ethnic groups or ensembles, may be prohibited according to the terms of the law. Any act of racial, ethnic, or religious discrimination as well as any regionalist propaganda capable of touching the internal or external security of the state or the integrity of the Republic shall be punished by law.

14) The family is the basic natural unit of society; marriage is the legitimate support of it. They shall be placed under the particular protection of the state.

15) The state shall have the duty to organise a general census of the population every ten years.

16) The support to be given to children and their education constitute, for parents, a natural right and duty which they shall exercise under the surveillance and with the aid of the state and public entities. Parents shall have the right, in the area of scholarly obligation, to decide upon the moral and religious education of their children. The children shall have, *vis-a-vis* the state, the same rights concerning assistance as well as their physical, intellectual and moral development.

17) The protection of the young against exploitation and against moral, intellectual and physical abandon, shall be an obligation for the state and public entities.

18) The state shall guarantee equal access of the child and the adult to instruction, to professional education and to culture.

19) The state shall have the duty to organise public education on the principle of religious neutrality and, subject to its resources, freely granting of diplomas shall be the prerogative of the state. However, freedom of education shall be guaranteed to all. Any person may open a pre-school, primary, secondary, superior establishment or a university, under conditions fixed by the law. The law shall fix the conditions of participation of the state and public entities in the financial obligations of private educational institutions, recognised as serving the public need. In public educational establishments, religious instruction may be dispensed to students upon the demand of their parents, under conditions determined by regulations. The law shall fix the conditions of operation of private educational institutions taking into account their specificity.

20) The nation shall proclaim the solidarity and equality of all before the public charges; everyone shall participate, in proportion to his resources, to the financing of public expenses. The nation shall proclaim in addition the solidarity of all before the charges which result from natural and national calamities.

21) Each citizen shall have the duty to defend the fatherland and the obligation to protect and respect the Constitution, the laws and the regulations of the Republic.

22) The defence of the nation and the safeguard of public order shall be essentially assured by the national defence and security forces. In consequence, no person, no group of persons may constitute itself in private militia or paramilitary grouping; the national defence and security forces shall be at the service of the state. In times of peace, the Gabonese Armed Forces may participate in the work of economic and social development of the nation.

23) No one shall be arbitrarily detained. No one shall be kept under watch or placed under a warrant for arrest if he presents sufficient guarantees of representation, under reservation of the necessities of security and procedure. All accused shall be presumed innocent until the establishment of his culpability following regular process, offering indispensable guarantees to his defence. The judicial authority, as the guardian of individual liberty, shall assure the respect of these principles within the periods fixed by the law.

## **TITLE I: THE REPUBLIC AND SOVEREIGNTY**

### **Article 2**

Gabon is an indivisible, secular, democratic and social Republic. It shall affirm the separation of state and religion and recognise all beliefs, under the reservation of respect for public order. The Gabonese Republic shall assure the equality of all citizens before the law, without distinction of origin, race, sex, opinion or religion. ... Its principle shall be: "government of the people, by the people and for the people." The Gabonese Republic adopts French as the official language of work. In addition, she shall strive for the protection and the promotion of the national languages.

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### **Article 3**

National sovereignty shall belong to the people who shall exercise it directly, by referendum or by election, according to the principle of multi-party democracy, and indirectly by constitutional institutions. No faction of the people, no group, no individual shall attribute to itself the exercise of the national sovereignty.

### **Article 4**

Suffrage is universal, equal and secret. It can be direct or indirect, within the conditions provided by the Constitution or by law. Under the conditions provided by law, all Gabonese of both sexes, 18 years of age, possessing their civil and political rights, are electors. Under the conditions provided by the Constitution and by the law, all Gabonese of both sexes, possessing civil and political rights, are eligible to be elected to public office and to vote.

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### **Article 6**

Parties and political groupings shall concur in the expression of suffrage. They shall form themselves and exercise their activities freely, in the area fixed by law, according to the principles of multi-party democracy. They must respect the Constitution and the laws of the Republic.

### **Article 7**

Any act touching upon the republican form, unity, secularity, sovereignty and independence, shall constitute a crime of high treason, punishable by law.

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## **TITLE II: EXECUTIVE AUTHORITY**

### **I: The President of the Republic**

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### **Article 25**

The President of the Republic may, when circumstances demand, after deliberation of the Council of Ministers and after deliberation with the Bureau of the National Assembly (and the Senate), proclaim by decree a state of siege, which confers upon him special powers, under conditions determined by law.

### **Article 26**

When the institutions of the Republic, independence or the superior interests of the nation, territorial integrity or the execution of its international engagements are threatened in a grave and immediate manner and when the regular operation of constitutional public powers is interrupted, the President of the Republic shall take by ordinance, during the intercessions, with the least delay, measures necessitated by the circumstances, and after consultation of the National Assembly as well as the Constitutional Court. He shall inform the nation of this by a message.

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## **TITLE IV: RELATIONS BETWEEN LEGISLATIVE AND EXECUTIVE POWERS**

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**Article 51**

Matters other than those stemming from the field of law are of a statutory nature. They are the object of the decrees of the President of the Republic. These matters can, for the fulfillment of these decrees, be the object of ministerial orders taken by the Prime Minister or, by delegation of the Prime Minister, by the responsible ministers or by the other administrative authorities assigned to do it.

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**TITLE V: JUDICIAL AUTHORITY****I: Judicial Authority**

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**Article 68**

Justice shall be an authority independent of legislative authority and executive authority. Judges are only be subject, in the exercise of their functions, to the authority of the law.

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**TITLE VI: THE CONSTITUTIONAL COURT****Article 83**

The Constitutional Court shall be the highest jurisdiction of the state in constitutional matters. It shall be the judge of the constitutionality of laws and it shall guarantee the fundamental rights of the human person and public liberties. It shall be the regulatory organ of the operation of institutions and of the activities of public authorities.

**Article 84**

The Constitutional Court shall in a binding way decree upon:

- the constitutionality of organic laws and laws before their promulgation, regulatory acts which touch upon the fundamental rights of the human person and public liberties;

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The Constitutional Court shall be convened, in the case of contestation of the validity of an election, by any voter, any candidate, any political party or the delegate of the government under the conditions provided for by the organic law.

**Article 85**

Organic laws shall be submitted by the Prime Minister to the Constitutional Court before their promulgation. The other categories of laws as well as regulatory acts may be deferred to the Constitutional Court, either by the President of the Republic, or by the Prime Minister, or by the President of the Supreme Court, or by any citizen or any moral person aggrieved by the contested law or act. ... A provision declared unconstitutional shall not be promulgated or applied.

**Article 86**

Any accused may, by means of a process before an ordinary tribunal, raise an exception of unconstitutionality when faced with a law or an act which does not recognise his fundamental rights. The judge on the bench seizes the Constitutional Court by way of prejudicial exception. The Constitutional Court shall decree within a period of one month. If it declares the incriminatory law unconstitutional, this law shall cease to produce these effects from the moment of the decision. The Parliament shall examine, during the course of the next session, within the scope of a procedure of remittal, the consequences deriving from the decision of non-conformity to the Constitution rendered by the court.

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**Article 92**

The decisions of the Constitutional Court shall not be susceptible to any review. They bind public authorities, all administrative and jurisdictional authorities and all physical and moral persons.

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## **TITLE VII: THE NATIONAL COUNCIL OF COMMUNICATION**

### **Article 94**

Audiovisual and written communication is free in the Gabonese Republic, under the reservation of respect of public order, of liberty and dignity of citizens.

### **Article 95**

To this effect a National Council of Communication is instituted, charged to see:

- to the respect of the expression of democracy and the freedom of the press in all that which arises in the territory;
- to the access of citizens to free communication;
- to equal treatment of all political parties and associations.

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## **TITLE X: INTERNATIONAL TREATIES AND ACCORDS**

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### **Article 114**

Peace treaties, commercial treaties, treaties relative to international organisation, treaties which engage the finances of the state, and those concerning personal status shall only be approved and ratified by law. No amendment shall be admissible at this stage. Treaties shall take effect only after having been regularly ratified and published.

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## **TITLE XII: AMENDMENT OF THE CONSTITUTION**

### **Article 116**

The initiative of amendment shall belong concurrently to the President of the Republic, the Council of Ministers thereupon focused, and the Members of Parliament. Any proposition of amendment shall be filed with the Bureau of the National Assembly by at least a third of the Deputies or with the Bureau of the Senate by at least one-third of the Senators. Any project or proposition of amendment shall be submitted, for advice, to the Constitutional Court. The amendment shall be adopted either by way of referendum, or by parliamentary vote. ...

### **Article 117**

The Republican form of the state, as well and the pluralist character of the democracy shall be intangible and shall not be the object of any amendment.

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