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THE CONSTITUTION OF THE REPUBLIC OF DJIBOUTI, 1992

(as Amended to 2010)

Adopted: September 15, 1992

As amended to April 21, 2010

Explanatory Note:

The changes implemented by the constitutional reforms of 2006 (*Constitutional Act No. 134/AN/06/5ème L of February 2, 2006*), 2008 (*Constitutional Act No. 215/AN/08/5ème L of January 19, 2008*), and 2010 (*Constitutional Act No. 92/AN/10/6ème L of April 21, 2010*) are highlighted in italics for easy reference.

PREAMBLE In the name of the Almighty God!

The Djiboutian people solemnly proclaim their attachment to the principles of Democracy and Human Rights as defined by *the Universal Declaration of Human Rights* and the *African Charter on Human and Peoples' Rights* whose provisions shall be an integral part of this Constitution.

They affirm their determination to establish a state based on the rule of law and multi-party democracy which guarantees the full enjoyment of individual and collective rights and liberties as well as the harmonious development of the nation.

They affirm their will to cooperate in peace and friendship with all peoples sharing their ideals of liberty justice and solidarity, based on mutual respect, national sovereignty and territorial integrity.

TITLE I ON THE STATE AND SOVEREIGNTY

Article 1

Islam shall be the religion of the State.^{[11](#)}

The State of Djibouti shall be a democratic sovereign Republic, one and indivisible.

It shall ensure the equality of all citizens before the law, without distinction as to language, origin, race, sex or religion. It shall respect all beliefs.

Its motto shall be “Unity—Equality—Peace.”

Its principle shall be government of the people, by the people and for the people.

Its official languages shall be Arabic and French.

Article 2

The capital of the State shall be Djibouti.

The emblem of the Republic shall be the blue, green and white flag bearing a red five-pointed star.

The national anthem and seal of the Republic shall be determined by law.

Article 3

The Republic of Djibouti shall comprise all persons whom it recognizes as members and who accept its duties, without distinction of language, race, sex or religion.

National sovereignty shall belong to the Djiboutian people who shall exercise it through its representatives or by way of referendum. No section of the people or any individual may arrogate to itself, or to himself, the exercise thereof.

Nobody may be arbitrarily deprived of the status of member of the national community.

Article 4

Popular legitimacy shall be the foundation and source of all power. It shall be expressed through universal, equal and secret suffrage. Executive power and legislative power shall derive from universal suffrage or from the bodies elected by such suffrage.

Article 5

All Djiboutian nationals of both sexes who have reached their majority and enjoy civil and political rights shall be eligible to vote under the conditions determined by law.

Article 6

Political parties *and/or groupings of political parties* shall contribute to the exercise of suffrage.^[2]

They shall be formed and carry on their activities freely in respect of the Constitution and the principles of national sovereignty and democracy.

They shall be prohibited from identifying themselves with a particular race, ethnic group, sex, religion, sect, language or region.

The formalities with respect to the registration of political parties and/or grouping of political parties, the exercise and the termination of their activities shall be determined by law. ^[3]

Article 7

The Institutions of the Republic shall be:

- The executive power
- The legislative power
- The judicial power

Each of these institutions shall assume full and complete responsibility for its prerogatives and competences in such manner that the continuity and regular functioning of the institutions of the Republic shall be assured.

Article 8

The institutions of the Republic shall permit the normal and regular exercise of popular sovereignty and guarantee the full exercise of public rights and freedoms.

Article 9

The institutions shall permit the participation of the Republic in regional and international organizations, in respect for sovereignty, with a view to the building of peace and international justice and the economic, cultural and social development of peoples.

[1] The provision was moved from the **Preamble** to **Article 1** by Constitutional Act No. 92/AN/10/6ème L of April 21, 2010.

[2]^[3]

The constitutional reform of April 21, 2010 has extended the right to take part in elections which was previously restricted to political parties to alliances and other groupings of political parties.

TITLE II ON THE RIGHTS AND DUTIES OF THE PERSON

Article 10

The person is sacred. The State shall have the obligation to respect and protect it. All human beings shall be equal before the law.

Every individual shall have the right to life, liberty, security and the integrity of his person.

No one shall be sentenced to death.^[4]

No one may be prosecuted, arrested, accused or convicted other than by virtue of a law promulgated prior to the actions of which he is accused.

All accused persons shall be deemed innocent until proven guilty by the competent jurisdiction.

The right to defense, including the right to legal assistance of one's own choosing, shall be guaranteed at all stages of proceedings.

Anyone who is deprived of his liberty shall have the right to be examined by a doctor of his own choosing.

No one may be detained in a penal establishment other than by order of a magistrate member of the judiciary.

Article 11

Everyone shall have the right to freedom of thought, conscience, religion, worship and opinion in conformity with the order established by law and the regulations.

Article 12

The right to property is guaranteed by the present Constitution. It may not be impaired except in the case of public necessity legally established and subject to the prior payment of just compensation.

The home shall be inviolable. It may be subjected to domiciliary visit or house search only in the manner and under the conditions prescribed by law. Measures impairing or restricting the inviolability of the home may be taken only to provide against a common danger or to protect persons in danger of death.

Article 13

The secrecy of correspondence and all other means of communication shall be inviolable. This inviolability shall be subject only to such restrictions as are made applicable by law.

Article 14

All citizens of the Republic shall have the right freely to move and settle anywhere within the territory of the Republic. This right may not be limited except by law.

No preventive measures shall be taken against any person except in the cases provided by law.

Article 15

Everyone shall have the right freely to express and disseminate his opinions by word, pen or image. These rights shall be subject to the provisions of the law as well as to respect for the honor of other persons.

All citizens shall have the right freely to constitute associations and trade unions, subject to compliance with the formalities required by the laws and regulations.

The right to strike shall be recognized. It shall be exercised within the limits of the laws which are applicable thereto. In no case may the freedom to work be impaired.

Article 16

No one shall be subjected to torture or to inhumane, cruel, degrading or humiliating treatment or punishment.

Any individual, agent of the State or public authority guilty of such acts, whether independently or on instructions, shall be punished in accordance with the law.

Article 17

The defense of the nation and of the integrity of the Republic shall be a sacred duty for all Djiboutian citizens.

Article 18

An alien lawfully in the national territory shall enjoy the protection of the law in respect of his person and his property.

Article 19

The State shall protect the lawful rights and interests of Djiboutian citizens abroad.

Article 20

The authority of the State shall be exercised by:

- The President of the Republic and his Government;
- The National Assembly;
- The judicial power.

<p>[4] The prohibition of the death penalty was inserted by constitutional reform of April 21, 2010.</p>
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TITLE III ON THE EXECUTIVE POWER^[5]

Article 21

Executive power shall be exercised by the President of the Republic, who shall in addition be Head of Government.

Article 22

The President of the Republic shall be the Head of State. He shall embody the national unity and ensure the continuance of the State.

He shall be the guarantor of national security, of national independence, of the integrity of the territory and of respect for the Constitution and for international treaties and agreements.

Article 23^[6]

Any candidate for the office of President of the Republic shall be of Djiboutian nationality, to the exclusion of any other, shall enjoy civil and political rights and shall be at least forty years of age *and at most seventy five years on the date of the official declaration of his candidacy.*

Article 24

The President of the Republic shall be elected for *five years*^[7] by direct universal suffrage and majority vote in two rounds (*scrutinmajoritaire à deux tours*).^[8] *He shall be eligible for reelection in the conditions provided for in*[Article 23](#).

Article 25

Presidential elections shall take place 30 days at the least and forty days at the most before the expiration of the mandate of the President in office.

Article 26

The conditions for eligibility and the submission of candidacies, and the procedures for conduct of the voting, counting of the votes and announcement of the results shall be prescribed by law. The law shall also prescribe all necessary provisions to ensure the freedom and regularity of the elections.

Article 27

The President of the Republic shall be elected by an absolute majority of the votes cast. If this is not obtained on the first ballot, there shall be a second ballot within two weeks. This second ballot shall be open only to the two candidates who have received the greatest number of votes.

If one of the two candidates withdraws, the ballot shall be open to the candidate ranking next in order of votes cast.

If, within seven days before the deadline for the registration of candidacies, a person who, less than thirty days before this date, had publicly announced his decision to be a candidate should die or encounter an impediment, the Constitutional Council may decide to postpone the election.

If, before the first ballot, one of the candidates should die or encounter an impediment, the Constitutional Council shall order postponement of the election.

In the event that one of the two candidates who had received the greatest number of votes in the first ballot, before any eventual withdrawals, or one of the two candidates remaining following such withdrawals, should die or encounter an impediment, the Constitutional Council shall declare that the whole electoral process should be started again.

The voters shall be summoned by decree adopted in the Council of Ministers.

The Constitutional Council shall monitor the regularity of these operations, rule on complaints, and announce the results of the vote.

Article 28

When the President of the Republic is temporarily prevented from discharging his duties, the Prime Minister shall temporarily assume his functions.

Article 29

In the event that the Presidency of the Republic has been vacated, for any cause whatsoever, or impeded in its functioning as officially noted by the Constitutional Council, to which the matter has been referred by the Prime Minister or by the President of the National Assembly, the functions of the President shall be temporarily assumed by the President of the Supreme Court, who may not be a candidate for the Presidency while performing such functions.

During such time the Government may not be dissolved or functions within it reassigned, nor may any change in or dissolution of the institutions of the Republic take place.

The election of the new President shall take place thirty days at the least and forty-five days at the most after official note has been taken of the vacation or the definitive nature of the impediment.

Article 30

The President of the Republic shall determine and direct the policy of the nation. He shall have regulatory powers.

Article 31

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

Article 32

The President of the Republic shall be the supreme commander of the armed forces. He shall designate the holders of high commands and the corps commanders.

He shall award the decorations of the Republic.

He shall exercise the right of pardon.

Article 33

The President of the Republic may, after consultation with the President of the National Assembly and the President of the Constitutional Council, submit any bill to a referendum.

Article 34

The President of the Republic shall promulgate the laws adopted by the National Assembly within fifteen days of their transmission, unless he makes a request for a second reading by the Assembly. He shall be responsible for the execution of the laws.

Article 35

The President of the Republic shall notify the Constitutional Council when he considers that a law is contrary to the present Constitution.

Article 36

The President of the Republic shall ensure the execution of decisions of the courts.

Article 37

The President of the Republic shall appoint and accredit diplomatic and consular representatives and envoys extraordinary to foreign Powers. The ambassadors and envoys extraordinary of foreign Powers shall be accredited to him.

Article 38

The benefits conferred on the President of the Republic shall be determined by law, which shall also arrange the procedures for the granting of a pension to former Presidents.

Article 39

When the institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfillment of its international commitments are threatened in a grave and immediate manner and when the regular functioning of the governmental authorities is interrupted, the President of the Republic may, after consulting the President of the National Assembly and the President of the Constitutional Council and after informing the Nation in a message, take any measure, except for a constitutional amendment, which tends to reestablish the regular functioning of the governmental authorities and to ensure the safeguarding of the nation.

The National Assembly shall convene as of right.

The Assembly shall be responsible for ratification of any measures of a legislative nature put into effect by the President within fifteen days of their promulgation. These measures shall become null and void if a government bill for ratification is

not filed with the Secretariat of the National Assembly within the aforementioned period of time. Refusal of ratification by the National Assembly shall not be retroactive in effect.

Article 40

The President of the Republic shall be assisted in the discharge of his duties by a Government of whom the Prime Minister and the Ministers shall be members as of right.

It shall be the duty of the Government to assist and advise the President of the Republic in the discharge of his duties.

The President of the Republic shall designate the Prime Minister and, at the latter's proposal, appoint the other members of the Government. He shall determine their powers and dismiss them.

The Prime Minister shall execute the policies of the President of the Republic and shall coordinate and sustain the action of the Government. [\[9\]](#)

The members of the Government shall be responsible to the President of the Republic.

Article 41

The President of the Republic shall preside over the Council of Ministers. The latter shall be required to discuss:

- Decisions determining the general policy of the State;
- Bills;
- Nominations for the senior State posts of which a list shall be drawn up under a law adopted by the National Assembly.

Article 42

The President of the Republic may delegate certain of his functions to the Prime Minister, the Ministers and senior administration officials in the context of their respective powers.

Article 43

The offices of the President of the Republic and of Government members shall be incompatible with the exercise of any parliamentary mandate, any public employment and any professional activity. [\[10\]](#)

[5] **Titles III** “On the President” and **Title IV** “On the Government” have been replaced by the new **Title III** “On the Executive Power” by virtue of the constitutional reform of April 2010.

[6] The required qualifications for presidential candidates were previously laid down in **Article 24**. The constitutional reform of April 21, 2010, shifted them to **Article 23** and introduced an age limit (75 years) for candidates to the Presidency.

[7] The constitutional reform of April 21, 2010, has reduced the presidential term from six to five years. Even more importantly, it has abolished the rule that a President may be reelected only once and replaced it with the new rule that presidential candidates may only stand for (re-)election if they are not older than 75 on the day of the declaration of their candidacy.

[8] The second round of voting takes place only if no candidate obtains an absolute majority of the votes cast on the first ballot. Only the two candidates who have received the highest number of votes and the second highest number, respectively, are allowed to take part in the second round.

[9] **Paragraph 4** of Article 40 was introduced by the constitutional reform of April 2010.

[10] The incompatibilities relating to the office of the President of the Republic have been extended to the offices of the Prime Minister and members of the Government by virtue of the reform of April 2010, thus strengthening the presidential character of the Djiboutian system of government by enshrining the incompatibility of a parliamentary seat with a Cabinet post in the Constitution.

TITLE IV ON THE LEGISLATIVE POWER^[11]

Article 44

The Parliament shall consist of a single Assembly, known as the National Assembly, members of which shall bear the title of deputies.

Article 45

The deputies to the National Assembly shall be elected for five years by direct and secret universal suffrage. They shall be eligible for re-election.

All Djiboutian citizens enjoying civil and political rights and aged twenty-three years or over shall be eligible.

Article 46^[12]

The following may not be elected members of the National Assembly during their period in office:

- The President of the Republic;
- *Prefects and the Deputy Prefects*;
- Secretaries-General in the Government and Ministers;
- Magistrates;
- State auditors, labor inspectors and education inspectors;
- Members of the armed forces *corps* and of the *National Police*.

Article 47

An Institutional Act shall determine the number of deputies, their allowances, the conditions of their eligibility and ineligibility, the voting procedures, and the conditions under which new elections should be held in the event of deputies' seats being vacated.

The Constitutional Council shall rule on disputes regarding the regularity of the election of deputies and on their eligibility.

Article 48

Each deputy shall be the representative of the nation. Any binding mandate shall be invalid.

An Institutional Act may, by way of exception, authorize the delegation of the right to vote. In such case, no one may receive more than one delegated vote.

Article 49

The National Assembly shall be composed of all the representatives of the national community.

Article 50

The members of the National Assembly shall enjoy parliamentary immunity.

No deputy may be prosecuted, sought, arrested, detained or tried as a result of the opinions or votes expressed by him in the exercise of his functions.

No deputy may, during sessions, be prosecuted or arrested for criminal or minor offences without the authorization of the National Assembly, except in the case of *flagrante delicto*.

When the Assembly is not in session, no deputy may be arrested without the authorization of the Secretariat of the National Assembly except in the case of *flagrante delicto*, of authorized prosecution or final conviction.

The detention or prosecution of a deputy shall be suspended if the National Assembly so requires.

Article 51

The National Assembly shall convene by right in two ordinary sessions a year. *The first ordinary session shall open on March 1 and the second on October 1.*

The duration of each ordinary session is four months. The Secretariat of the National Assembly may however decide to extend it by a period not exceeding fifteen days to permit consideration of parliamentary bills which could not have been taken up in the course of the ordinary session.^[13]

The sittings of the National Assembly shall be public.

*A verbatim report of the public debates shall be published in **the Official Journal**.*

However, the National Assembly may sit in camera in the conditions established by its rules of procedure.^[14]

The Finance Act for the year shall be considered during the second ordinary session, known as the budget session.

Article 52

The National Assembly may convene in extraordinary session to consider a specific agenda at the request of the President of the Republic, the President of the National Assembly or an absolute majority of the deputies.

The duration of an extraordinary session may not exceed fifteen days. The National Assembly shall disperse once the agenda has been exhausted.

Article 53

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

Article 54

The National Assembly shall draw up its rules of procedure. The rules of procedure shall determine:

- The composition and rules of operation of the Secretariat as well as the powers and prerogatives of its President;
- The number, method of appointment, composition, role and jurisdiction of its *standings committees*, as well as of its special and ad hoc committees;^[15]
- The establishment of parliamentary commissions of inquiry in the context of the monitoring of Government actions;
- The procedure for challenging the Government;
- The disciplinary regime for Deputies;
- The organization of the administrative services placed under the authority of the President of the National Assembly, who shall be assisted by an Administrative Secretary-General;
- The different methods of voting, with the exception of those expressly provided for in the present Constitution;
- In general, all rules concerning the functioning of the National Assembly within the limits of its constitutional authority.

[11] Former **Title V** “On the National Assembly” has become the new **Title IV** “On the Legislative Power” by virtue of Constitutional Act No. 92/AN/10/6ème L, **Article 8**.

[12] As modified by **Article 9** of Constitutional Act No. 92/AN/10/6ème L of April 21, 2010. Prior to the reform, the provision was worded as follows:

“The following may not be elected members of the National Assembly during their period in office:

- The President of the Republic;
- The Commissioners of the Republic, District Chiefs and their deputies, Heads of arrondissements in Djibouti District;
- Secretaries-General in the Government and Ministers;
- Magistrates;
- State auditors, labor inspectors and education inspectors;
- Members of the armed forces and of the National Security Force;

- Commissioners and inspectors in the national police.”

[13] **Constitutional Act No. 134/AN/06/5ème L** fixed the commencement dates for the parliamentary session periods and extended their duration from two to four months.

[14] Paragraphs 3 to [5](#) were inserted by Constitutional Act No. 134/AN/10/6ème L, **Article 10**.

[15] **Constitutional Act No. 134/AN/06/5ème L** changed the singular noun (“standing committee”) to the plural.

TITLE V ON RELATIONS BETWEEN THE LEGISLATIVE POWER AND THE EXECUTIVE POWER^[16]

Article 55

The National Assembly shall hold the legislative power. It alone shall vote on the Acts of Parliament, by simple majority, subject to the provisions of [Article 66](#).

Article 56

Acts of Parliament shall establish the rules concerning:

- The organization of the Governmental authorities;
- The distribution of powers between the State and local communities as well as the establishment of offices, public institutions and national companies or enterprises;
- The enjoyment and exercise of civil and civic rights, nationality, status and security of persons, organization of the family, the property and inheritance regime and the law of obligations;
- The fundamental guarantees accorded to citizens for the exercise of their public liberties and the obligations imposed by national defense;
- The electoral regime;
- The fundamental guarantees accorded to civil and military personnel;
- The determination of crimes and misdemeanors as well as the penalties applicable thereto, criminal procedure, amnesty, the organization of the judiciary, the status of judges, ministerial officials and the juridical and judiciary professions, and the organization of the prison regime;
- The general principles of education;
- The fundamental principles of labor law, trade union law and social security;

- The basis, rates and means of collecting taxes of all kinds;
- The system for the issuance of currency, for credit and for banks and insurance.

Article 57

Matters other than those coming under the scope of statute law under the present Constitution shall be matters for regulation.

Statutory enactments concerning these matters may be modified by decree if the Constitutional Council, at the request of the President of the Republic, declares that they have a regulatory character by virtue of the [preceding paragraph](#).

Article 58

The President of the Republic and the members of the National Assembly alike shall have the right to initiate legislation.

The President of the Republic and the Deputies shall have the right of amendment.

Article 59

Parliamentary and Government bills and amendments which do not fall within the domain of statutory law shall not be considered. A ruling to this effect shall be made by the President of the National Assembly following discussion by the Secretariat.

In the event that the ruling is contested, the Constitutional Council, to which the matter has been referred by the President of the National Assembly or the President of the Republic, shall decide the matter within a time limit of eight days.

Article 60

The Government shall report periodically on its activities and its management to the National Assembly.

For the exercise of its right to be informed and exercise supervision, the National Assembly shall have at its disposal the following means:

- (1) Oral or written questions;
- (2) Parliamentary commissions of inquiry;
- (3) Challenges to the Government;

(4) The annual debate on the state of the nation.

One meeting every two weeks shall be reserved, by priority, for questions addressed by the deputies to the members of the Government.

The procedure for challenging the Government or one or more deputies may be invoked only on the initiative of at least ten deputies. The challenge shall be the subject of a special meeting, on a date to be determined by the Secretariat of the Assembly. The debate may be followed by a vote of the Assembly on the resolution proposed by the authors of the challenge.

At the opening of each session, the Prime Minister shall report to the Assembly on the situation of the country, the achievements of the Government and the broad outlines of governmental policy. His statement shall be followed by a debate.

The rules of procedure of the National Assembly shall specify the conditions for the application of these different procedures.

Article 61

The National Assembly meeting specifically for the purpose shall authorize the declaration of war. The President of the Republic shall inform the Nation thereof in a message.

Martial law and states of emergency shall be decreed in a meeting of the Council of Ministers.

Prolongation of martial law or a state of emergency beyond fifteen days may not be authorized without the prior consent of the National Assembly.

Article 62

Peace treaties, commercial treaties, treaties or agreements relative to international organizations, treaties which imply a commitment for the finances of the State, those relative to the status of persons, and those that call for the cession, exchange or acquisition of territory may be ratified or approved only by virtue of a law.

Ratification or approval of an international commitment containing a clause contrary to the provisions of the present Constitution may take place only after the amendment of the Constitution.

No cession, no exchange, and no acquisition of territory shall be valid without the consent of the people, which shall express its opinion by means of a referendum.

Article 63

The President of the Republic may, at his request, be heard by the National Assembly and address messages to it. These communications may not be subject to debate in his presence.

Article 64

The members of the Government shall have access to the meetings of the National Assembly. They shall be heard at the request of a Deputy or a Commission, or at their own request.

Article 65

Finance Acts shall determine the revenues and expenditure of the State. Accounting Acts shall control the application of the Finance Acts, subject to subsequent auditing of the accounts of the Nation by the *Court of Audit*.^[171]

Program Acts shall determine the economic and social objectives of the State.

Article 66

Acts of Parliament which are defined by the Constitution as being Institutional Acts shall be adopted only by an absolute majority of members of the National Assembly, and may be promulgated only after a declaration by the Constitutional Council on their constitutionality.

Article 67

The agenda of the Assembly shall be *established* by the Conference of Presidents, comprising the President of the Assembly, the Vice-Presidents of the Secretariat of the Assembly, the Presidents of the Committees and the Rapporteur-General of the Finance Committee.^[181]

A representative of the Government shall participate in the work of this Conference.

Only texts falling within the competence of the Assembly under the terms of [Article 57](#) may be included in its agenda.

The discussion of Government bills or of parliamentary bills accepted by the Government shall have priority on the agenda in the order set by the Government. The agenda may not be modified.

Urgency shall be accorded by right when the Government so requests.

Article 68

Parliamentary bills and amendments which, if adopted, would have as a consequence either a diminution of public financial resources or the increase of public expenditure without a

concomitant reduction in other expenditures or the creation of new revenue of equal magnitude shall not be considered.

Article 69

The Finance Act shall determine the financial resources and obligations of the State.

The annual finance bill (State budget) shall be submitted to the National Assembly immediately upon the opening of the ordinary session preceding the budget year, and in any event before November 15. The finance bill shall make provision for the revenues required for full coverage of the expenditures.

The finance bill shall be voted upon in first reading at the latest within thirty-five days following its submission. In the event of its rejection or amendment, a second reading may be requested.

If the budget is not voted upon by January 1, the President of the Republic shall have authority to extend, by provisional twelfths, the budget for the previous year.

The budget may be adopted only in plenary session.

[16] **Title VI** became the new [Title V](#) by virtue of Constitutional Act No. 92/AN/10/6ème L, **Article 11**.

[17] **Constitutional Act No. 215/AN/08/5ème L** substituted the Court of Audit for the Chamber of Audit of the Supreme Court.

[18] **Constitutional Act No. 134/AN/06/5ème L** replaced the word “determined” (“est fixé”) with the word “established” (“est établi”).

TITLE VI TREATIES, CONVENTIONS AND INTERNATIONAL AGREEMENTS^[19]

Article 70

The President of the Republic shall negotiate and approve treaties and international conventions, which shall be submitted for ratification by the National Assembly.

Treaties or agreements duly ratified shall, upon their publication, have an authority superior to that of laws subject, for each agreement or treaty, to its application by the other party and to its conformity with the relevant provisions of the law of treaties.

Without prejudice to the previous paragraph, the ratification or approval of an international commitment containing a clause contrary to the relevant provisions of the Constitution may take place only after the amendment of the Constitution. [20]

[19] The new Title VI on Treaties was inserted by Constitutional Act No. 92/AN/10/6ème L, Article 5.

[20] Article 37 of title III has become article 70 of the new title VI by virtue of Constitutional Act No 92/AN/10/6ème L article 5

TITLE VII ON JUDICIAL POWER

Article 71

The judicial power shall be independent of the legislative power and the executive power. It shall be exercised by the Supreme Court, *the Court of Audit*, and the other courts and tribunals. [21]

The Court of Audit shall be the jurisdiction which controls the public finances. [\[22\]](#)

The judicial power shall ensure respect for the rights and liberties specified in the present Constitution.

Article 72

Judges shall be subject only to the authority of the law. In the context of their official duties, they shall be protected against any form of pressure susceptible of impairing their free agency.

Judges may not be removed from office.

Article 73

The President of the Republic shall be the guarantor of the independence of the judiciary. He shall be assisted by the High Council of the Judiciary, over which he shall preside.

The High Council of the Judiciary shall supervise the management of the judicial profession and shall give its opinion on any issue relating to the independence of the judiciary. It shall act as a disciplinary council for judges.

An organic law shall determine the composition, functions and powers of the High Council of the Judiciary as well as the status of the judiciary, in conformity with the principles contained in the present Constitution.

Article 74

No one may be arbitrarily detained. The judicial power, guardian of individual liberty, shall ensure respect for this principle under the conditions stipulated by law.

[21][22Constitutional Act No. 215/AN/08/5ème L elevated the Court of Audit to the rank of an independent institution of the judiciary and provided for a constitutional definition of its mission.

TITLE VIII ON THE CONSTITUTIONAL COUNCIL

Article 75

The Constitutional Council shall ensure compliance with the principles of the Constitution. It shall monitor the constitutionality of the laws. It shall guarantee the fundamental rights of the person and the public liberties.

It shall act as the regulatory body for the functioning of the institutions and activity of the governmental authorities.

Article 76

The Constitutional Council shall consist of six members, whose term of office shall last eight years and shall not be renewable. They shall be designated as follows:

- Two appointed by the President of the Republic;
- Two appointed by the President of the National Assembly;
- Two appointed by the High Council of the Judiciary.

One half of the membership of the Constitutional Council shall be renewed every four years.

The President of the Constitutional Council shall be appointed by the President of the Republic from among its members. He shall have the deciding vote in case of a tie.

Former Presidents of the Republic shall be de jure members of the Constitutional Council.

The members of the Constitutional Council shall enjoy the immunity accorded to members of the National Assembly.

Members of the Constitutional Council shall be at least thirty years of age and shall be selected primarily from among experienced jurists.

Article 77

The Constitutional Council shall ensure the regularity of all election and referendum procedures and shall announce their results. It shall examine and rule on complaints.

Cases of disagreement by any candidate or any political party as to the validity of an election shall be referred to the Constitutional Council.

Article 78

Institutional Acts, before their promulgation, and the rules of procedure of the National Assembly, before they come into application, must be submitted to the Constitutional Council, which shall rule on their constitutionality.

Article 79

For the same purpose, laws may be referred to the Constitutional Council before their promulgation by the President of the Republic, the President of the National Assembly or ten deputies.

Referral to the Constitutional Council by the President of the Republic must take place within six days following the transmission to him of the definitively adopted law; referral by the President of the National Assembly or the Deputies must take place within the time limit of six days from the definitive adoption of the law.

In the cases provided for by the two [preceding paragraphs](#), the Constitutional Council must make its ruling within a time limit of one month. Nevertheless, at the request of the President of the Republic, in case of emergency, this period shall be reduced to eight days. In these cases, referral to the Constitutional Council shall suspend the time limit for promulgation.

A provision declared unconstitutional may not be promulgated or implemented.

Article 80

Legislative provisions relating to the fundamental rights of any person as recognized under the Constitution may be referred to the Constitutional Council, by way of exception, in connection with proceedings that are under way before a court.

The plea of unconstitutionality may be entered by any plaintiff before any jurisdiction.

The jurisdiction in question shall then suspend its proceedings and transmit the case to the Supreme Court. The Supreme Court shall have a time limit of one month within which to reject the plea if it is without serious foundation or, if the converse is true, refer the case to the Constitutional Council, which shall make its rulings within the time limit of one month.

A provision found unconstitutional on the basis of this article shall cease to be applicable and may no longer be applied in proceedings.

Article 81

Decisions of the Constitutional Council shall possess the authority of *res judicata*. They may not be appealed.

They must be recognized by the Governmental authorities, by all administrative and juridical authorities and by all physical and moral persons.

Article 82

An Institutional Act shall determine the rules of organization and functioning of the Constitutional Council, as well as the procedure to be followed before it. This Institutional Act shall also determine the procedures for the application of [article 80](#).

TITLE IX ON THE HIGH COURT OF JUSTICE

Article 83

A High Court of Justice shall be established.

It shall be composed of members designated by the National Assembly after each general election to the Assembly. It shall elect its President from among its members.

An Institutional Act shall determine its composition, its rules and also the procedure to be followed before it.

Article 84

The High Court of Justice shall be competent to judge the President of the Republic and Ministers indicted before it by the National Assembly.

The President of the Republic shall not be held accountable for actions performed in the exercise of his office except in the case of high treason. The members of the Government shall be criminally liable for actions performed in the exercise of their office and deemed to be crimes or misdemeanors at the time they were committed.

The indictment shall be voted upon in open balloting and shall require a two-thirds majority of the deputies in the National Assembly.

The High Court of Justice shall be bound by the definition of crimes and misdemeanors, as well as by the determination of penalties, as they are established by the criminal laws in force at the time of the acts cited in the charge.

TITLE X ON TERRITORIAL UNITS^[23]

Article 85

The territorial units shall be legal persons under public law which enjoy administrative and financial autonomy.

Territorial units shall be the regions, the municipalities and any other territorial unit with a special status.

Article 86

The territorial units shall be administered freely by elected councils with a view to develop and promote local and regional interests.

Article 87

The mission, organization, functioning of, and the financial rules applicable to, the territorial units shall be established by Institutional Act.

Article 88

In the territorial units, the representative of the State shall be responsible for the national interests, for administrative supervision a posteriori and for respect for the laws.

[23] New Articles [85](#) to [88](#) as introduced by the constitutional reform of April 21, 2010. Prior to the constitutional revision, the title was worded as follows:

TITLE X ON TERRITORIAL UNITS

Article 85

The territorial units shall be established and administered under the conditions defined by the law.

These units shall be administered freely by elected councils and under the conditions provided for by law.

Article 86

In the territorial units, the Government delegate shall be responsible for the national interests, for administrative supervision and for respect for the laws.

TITLE XI ON THE MEDIATOR OF THE REPUBLIC^[24]

Article 89

An organ named Mediator of the Republic shall be established.

He shall be appointed for a non-renewable term of five (5) years by the President of the Republic.

The Mediator may not be removed from office and shall enjoy immunity in the exercise of his functions.

Article 90

The status, the competences, the organization and the functioning of the Mediator of the Republic shall be determined by Institutional Act.

[24] The new [Title XI](#) on the Mediator of the Republic was inserted by Constitutional Act No. 92AN/10/6ème L, [Article 13](#).

TITLE XII ON THE AMENDMENT OF THE CONSTITUTION^[25]

Article 91

The right to initiate an amendment of the Constitution shall be exercised concurrently by the President of the Republic and the members of the National Assembly.

For it to be discussed, any parliamentary bill for amendment must be signed by at least one third of the members of the National Assembly.

The Government or parliamentary bill for amendment must receive the votes of the majority of members of the National Assembly, and shall become definitive only after approval by referendum, by simple majority of the votes cast.

Nevertheless, the referendum procedure may be dispensed with at the decision of the President of the Republic; in this case, the Government or parliamentary bill for amendment shall be approved only if it is accepted by a two-thirds majority of the members of the National Assembly.

Article 92

No amendment procedure may be undertaken if it calls in question the existence of the State or jeopardizes the integrity of the territory, the republican form of government or the pluralist character of Djiboutian democracy.

[25]Title XI became the new [Title XII](#) by virtue of Constitutional Act No. 92/AN/10/6ème L, [Article 14](#).

TITLE XII FINAL AND TEMPORARY PROVISIONS

Article 93

The present Constitution shall be put to a referendum. It shall be registered and published, in French and Arabic, in [the Official Journal of the Republic of Djibouti](#). The French text shall be the authentic text.

Article 94

The present Constitution shall enter into force and be executed as the Constitution of the Republic within thirty days of its approval by referendum.

The establishment of the institutions provided for in the present Constitution shall begin two months at the latest, and be completed eight months at the latest, after its approval.

Article 95

The provisions necessary for the application of the present Constitution shall be the subject of laws voted on in the National Assembly.

Article 96

The legislation in force shall remain applicable to the extent that it is not contrary to the present Constitution or not expressly abrogated.

Article 97

The established authorities in the Republic of Djibouti shall continue to perform their functions and the current institutions shall be maintained until the new authorities and institutions have been established.

The Senate will be established when all the conditions necessary for its establishment are met.

The provisions, organization and functioning of the Senate shall be the object of an Institutional Act.^[26]

[26] The new provisions on the future creation of a Senate as a second chamber of the legislature have been inserted by **Article 15** of Constitutional Act No. 92/AN/10/6ème L of April 21, 2010.