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Preamble

We, the people of Togo, placing ourselves under the protection of God,
Aware that since its accession to international sovereignty on April 27, 1960, Togo, our country,
has been marked by profound sociopolitical changes on its path towards progress,
Aware of the solidarity that bonds us with the international community and in particular with the
people of Africa,
Decided to build a State of Law in which the fundamental human rights, public freedoms and
dignity of human persons shall be guaranteed and protected,
Convinced that such a State can only be based on political pluralism, the principles of
Democracy and the protection of Human Rights as defined by the **Charter of the United Nations**
of 1945, the **Universal Declaration of Human Rights of 1948** and the **International Pacts of 1966**,
the **African Charter of Human and People's Rights** adopted in 1981 by the Organization of
African Unity,
Proclaim solemnly our firm will to combat any political regime founded on arbitrariness,
dictatorship, injustice,
Affirm our determination to cooperate in peace, friendship and solidarity with all people of the
world attached to the democratic ideal, on the basis of the principles of equality, mutual respect
and sovereignty,
Undertake resolutely to defend the cause of the National Unity, of the African Unity and to
strive for the realization of sub-regional and regional integration,
Approve solemnly and adopt this Constitution as Fundamental Law of the State, of which this
preamble is an integral part.

Title I The State and the Sovereignty

Article 1

The Republic of Togo is a law-governed, secular, democratic and social State. It is one and indivisible.

Article 2

The Togolese Republic shall assure the equality of all citizens before the law without distinction of origin, race, sex, social condition or religion.

It shall respect all political and philosophical opinions as well as all religious beliefs.

Its principle is the government of the people, by the people and for the people.

The motto of the Republic is: "Work, Freedom, Homeland."

Article 3

The national emblem is a flag composed of five horizontal bands of alternating green and yellow colors. It bears on the upper left corner a five-pointed white star on a red square background.

The national day of the Republic of Togo is celebrated on the 27th of April of each year.

The State seal is composed of a round metal plaque in low relief of 50 millimeters and designed to print the mark of the State on official documents.

The seal bears, in reverse, for purposes of printing, the arms of the Republic, for the legend, "In the name of the people of Togo" and for the inscription, "Republic of Togo."

The coat of arms of the Republic of Togo is composed of:

- A silver oval shield with a *sinople* border, the national emblem, two flags back to back and the motto on a banner; in the center, the initials of the Republic of Togo on a golden background; in the lower portion, two roaring lions back-to-back.
- The two young lions representing the courage of the people of Togo. They hold the bow and arrow, traditional combat weapons, to show that the true freedom of the people of Togo lies in their hands and that their force resides above all in their own traditions. The lions standing back-to-back represent the vigilance of the people of Togo in guarding their independence, from East to West.

The national anthem of the Republic is "*Terre de nos aïeux*" ("Land of our ancestors").

The official language of the Republic of Togo is French.

Article 4

Sovereignty belongs in the hands of the people, who shall exercise it through their representatives and by means of referendum. No section of the people, no State body, no individual may lay claim to its exercise.

The initiative of referendum belongs concurrently to the people and to the President of the Republic (*Président de la République*).

A referendum of popular initiative may be organized at the request of at least five hundred thousand (500,000) voters representing more than half of the prefectures. There cannot be more than fifty thousand (50,000) among them registered on the electoral lists of the same prefecture. The request shall be carried on a single text. Its regularity shall be judged by the Constitutional Court (*Cour Constitutionnelle*).

Article 5

Suffrage is universal, equal and secret. It may be direct or indirect. Voters shall be, in the conditions set by the law, all Togolese nationals of either gender, of at least eighteen (18) years of age and enjoying their civil and political rights.

Article 6

Political parties and consortia (*regroupments*) of political parties shall concur to the formation and the expression of the political will of the people.

They are formed freely and exercise their activities while respecting the laws and regulations.

Article 7

Political parties and consortia of political parties shall respect the Constitution.

They may not identify themselves with one region, one ethnicity or one religion.

Article 8

Political parties and consortia of political parties shall have the duty to contribute to the political and civic education of the citizens, to the consolidation of democracy and to the construction of national unity.

Article 9

The law determines the modalities of the creation and functioning of political parties.

Title II Rights, Freedoms and Duties of Citizens

Subsection I Rights and Duties

Article 10

Every human being has intrinsically inalienable and imprescriptible rights. The safeguarding of these rights is the aim of any human community. The State has the obligation to respect, guarantee and protect these rights. Corporations may benefit from the rights guaranteed by this Constitution as long as these rights are compatible with their nature.

Article 11

All humans are equal in dignity and in rights. Men and women are equal before the law. No one shall be favored or disadvantaged by reason of one's familial, ethnic or regional origin, of one's economic or social situation, of one's political, religious, philosophical or other convictions.

Article 12

Every human being has the right to the physical, intellectual, moral and cultural development of one's personality.

Article 13

The State has the obligation to guarantee physical and moral integrity, life and the security to anyone living in the national territory.

No one may be arbitrarily deprived either of their liberty or of their life.

Article 14

The exercise of the rights and freedoms guaranteed by this Constitution shall only be subjected to the restrictions expressly provided by the law and be necessary for the protection of the national security or public order, public health, morality or the fundamental freedoms and rights of others.

Article 15

No one shall be arbitrarily arrested or detained. Anyone who is arrested without legal base or detained longer than the legal period of time of police detention may, at his request or at the request of any concerned person, seize the judicial authority designated to this effect by the law. The judicial authority shall rule without delay on the legality or regularity of this person's detention.

Article 16

All persons accused or detained shall benefit from treatment that preserves their dignity, their physical and mental health, and that helps their social rehabilitation.
No one has the right to prevent an accused or detained person from being examined by a doctor of his choice.
Any accused person shall have the right to be assisted by an attorney during the preliminary hearing.

Article 17

All arrested persons have the right to be immediately informed of the charges brought against them.

Article 18

Any accused or suspected person shall be presumed innocent until his culpability has been established following a trial that offers the necessary guarantees for his defense.
The judicial power, protector of individual freedom, shall assure respect of this principle in the conditions provided by the law.

Article 19

All persons have the right in any matter to have their cause heard and settled equitably within a reasonable time by an independent and impartial jurisdiction.
No one may be sentenced for acts that did not constitute a breach of the law at the moment when they were committed.
Besides the cases provided by the law, no one may be prosecuted or sentenced for acts reproached to others.
The damages resulting from an error of justice or those following an abnormal functioning of the administration of justice shall give rise to compensation by the State, in accordance with the law.

Article 20

No one shall be subjected to measures of control or security apart from cases envisaged by the law.

Article 21

The human person is sacred and inviolable.
No one shall be submitted to torture or to other forms of cruel, inhuman or degrading treatment.
No one shall escape from punishment incurred for committing such violations by invoking an order from a superior or from a public authority.
Any individual, any agent of the State, guilty of such acts, either on his own initiative, or on instruction, shall be punished in conformity with the law.

Any individual, any agent of the State shall be relieved from the duty of obedience when the order received constitutes a manifest and grave attack against respect for Human Rights and public freedoms.

Article 22

Any Togolese citizen shall have the right to circulate freely and settle in the national territory in any place of his choice in the conditions defined by the law or local custom.

No Togolese may be deprived of the right to enter or leave Togo.

Any foreigner who has legally entered Togolese territory and who abides by the laws in effect shall have the freedom of movement, the freedom to choose his residence and the right to leave the territory freely.

Article 23

A foreigner shall only be deported or extradited from the Togolese territory in pursuance of a decision in accordance with the law. He must have the possibility to put forward his defense before the competent judicial authority.

Article 24

No Togolese may be extradited from the national territory.

Article 25

Anyone shall have the right to freedom of thought, conscience, religion, cult, opinion and expression. These rights and freedoms shall be exercised in respect of the freedoms of others, the public order and the norms established by the law and regulations.

The organization and practice of religious beliefs shall be exercised freely in respect of the law.

The same shall be applicable to philosophical orders.

The religious confessions shall have the right to organize and to exercise their activities freely in respect of the law.

Article 26

Freedom of the press is recognized and guaranteed by the State. It shall be protected by the law. Anyone has the freedom to express and to disseminate through speech, written or any other means, his opinions or information which he possesses, in respect of the limits defined by the law.

The press shall not be subject to prior authorization, caution, censorship or other restraints. The prohibition shall only be pronounced pursuant to a judicial decision.

Article 27

The right to own property shall be guaranteed by the law. It shall only be limited for the purposes of a legally ascertained cause of public utilization and after just and prior compensation.

No one's property shall be seized except pursuant to a decision taken by a judicial authority.

Article 28

Domicile is inviolable.

It may only be submitted to a search or police visit in the forms and conditions provided by the law.

Any citizen has the right to respect of his private life, honor, dignity and image.

Article 29

The State guarantees the secrecy of correspondence and telecommunications.
Any citizen has the right to the secrecy of his correspondence, communications and telecommunications.

Article 30

The State recognizes and guarantee under the conditions set by law , the exercise of the freedom of association, assembly and peaceful demonstration without instruments of violence.
The State recognizes private, denominational and secular teaching.

Article 31

The State has the obligation to assure the protection of marriage and the family.
Parents have the duty to provide support and education for their children. They shall be supported in this task by the State.
Children, whether born in a marriage or out of marriage, have the right to the same familial and social protection.

Article 32

Togolese nationality shall be granted as of right to children born of a Togolese father or mother.
Other cases of obtaining nationality shall be regulated by the law .

Article 33

The State shall take or enforce measures in favor of disabled and old persons meant to protect them from social injustice.

Article 34

The State shall recognize to all citizens the right to health. The State shall strive to promote it.

Article 35

The State recognizes the right to education of children and creates favorable conditions to accomplish this purpose.
School is obligatory for children of either gender until fifteen (15) years of age.
The State shall progressively assure that public education is free.

Article 36

The State shall protect the youth from any form of exploitation or manipulation.

Article 37

The State recognizes each citizen's right to work and shall strive to create the conditions for effective enjoyment of this right.
The State shall assure to each citizen the equality of opportunity in employment and guarantee to each worker a just and equitable compensation.
No one shall be disadvantaged in one's work by reason of one's sex, origin, belief or opinions.

Article 38

The right to equitable redistribution of national wealth by the State to the citizens and the territorial collectivities shall be recognized.

Article 39

The right to strike is recognized for workers. It shall be exercised within the framework of the laws that regulate it.

Workers may form unions or join the unions of their choice.

Any worker may defend, in the conditions provided by the law, his rights and interests individually, collectively or through union action.

Article 40

The State has the duty to safeguard and promote the national cultural heritage.

Article 41

Anyone has the right to a healthy environment. The State shall take care of the protection of the environment.

Subsection II Duties

Article 42

All citizens have the sacred duty to respect the Constitution as well as the laws and regulations of the Republic.

Article 43

The defense of the homeland and the integrity of the national territory is a sacred duty of all citizens.

Article 44

All citizens have the duty to participate in national service in the conditions defined by the law.

Article 45

All citizens have the duty to combat any person or group of persons who would try to change by force the democratic order established by this Constitution.

Article 46

Public property is inviolable.

Anyone or any public agent must scrupulously respect and protect public property.

Any act of sabotage, vandalism, embezzlement of public property, corruption, or dilapidation shall be repressed under the conditions provided by the law.

Article 47

All citizens have the duty to contribute to public charges in the conditions defined by the law.

Article 48

All citizens have the duty to take care that there is respect for the rights and freedoms of other citizens and the safeguarding of public security and order.

All citizens shall participate in the promotion of tolerance and of dialogue in their relationship with others.

All citizens have the obligation to preserve the national interest, social order, peace, and national cohesion. Any act or manifestation of a racist, regionalist, or xenophobic character shall be punished by the law.

Article 49

The Police and Security Forces, under the authority of the Government, shall have as their mission to protect the free exercise of rights and freedoms, and guarantee the security of citizens and their property.

Article 50

The rights and duties, stated in the **Universal Declaration of Human Rights** and in international instruments relating to Human Rights, ratified by Togo, shall be an integral part of this Constitution.

Title III The Legislative Power

Article 51

The legislative power, delegated by the people, is exercised by a Parliament composed of two assemblies, the National Assembly (*Assemblée Nationale*) and the Senate (*Sénat*). The members of the National Assembly have the title of deputy (*député*) and those of the Senate carry the title of Senator (*Sénateur*).

Article 52

The deputies are elected for five (5) years by universal, direct and secret suffrage by uninominal majority vote with one (1) ballot. They may be reelected. Each deputy shall be the representative of the entire Nation. Any imperative mandate is void.

Elections shall take place within thirty (30) days before the expiration of the deputies' mandate. The National Assembly shall meet as of right on the second Tuesday following the official proclamation date of the results.

Any member of the Armed Forces or the Public Security, who desires to be a candidate for the functions of deputy, shall first resign from the Armed Forces or the Public Security.

In this case, the interested [person] must claim the benefit of the rights acquired in accordance with the statutes of his profession (*corps*).

An organic law shall set the number of deputies, their compensation, the conditions of eligibility, the rules of incompatibility and the conditions under which vacant seats are available.

An organic law determines the status of former deputies.

The Senate is composed of two-thirds (2/3) by personalities elected by the representatives of the Territorial Collectivities and of one-third (1/3) by personalities designated by the President of the Republic.

The duration of the mandate of senators is five (5) years.

An organic law shall set the number of senators, their compensations, the conditions of their eligibility or of designation, the rules of incompatibility and the conditions under which vacant seats are available.

An organic law shall determine the status of former senators.

Outgoing members of the National Assembly and of the Senate, whether by end of their mandate or dissolution, shall stay in office until their successors effectively take over their functions.

Article 53

Deputies and senators shall enjoy parliamentary immunity.

No deputy or senator may be prosecuted, searched, arrested, detained or judged on the basis of the opinions or the votes expressed by him in the exercise of his functions, even after the expiration of his mandate.

Except in case of flagrant offense, deputies and senators can only be arrested or prosecuted for crimes or offenses after their parliamentary immunity has been removed by their respective Assembly.

Any proceeding relating to a flagrant offense against a deputy or against a senator shall be brought without delay to the knowledge of the board of their Assembly. A deputy or a senator may not be arrested out of session without the authorization of the board of the Assembly to which he belongs. The detention or prosecution of a deputy or a senator shall be suspended if the Assembly to which he belongs requests it.

Article 54

The National Assembly and the Senate shall each be directed by a president assisted by a board. The presidents and the boards are elected for the duration of the legislature in the conditions set by the internal regulation of each Assembly.

In case of vacancy of the presidency of the National Assembly or of the Senate, due to death, resignation or any other cause, the National Assembly or the Senate shall elect a new president within fifteen (15) days following the vacancy, if it is in session; otherwise, it shall meet as of right under the conditions set by its internal regulation.

The replacement of other members of the boards shall take place in accordance with the provisions of the internal regulation of each Assembly.

An organic law shall determine the status of former presidents of the National Assembly and of the Senate concerning, in particular, their compensation and their security.

Article 55

The National Assembly shall meet as of right in two (2) ordinary sessions per year.

The first session shall open on the first Tuesday of April.

The second session shall open on the first Tuesday of October.

The Senate shall meet as of right in two (2) ordinary sessions per year.

The first session shall open on the first Thursday of April.

The second session shall open on the first Thursday of October.

Each session shall last three (3) months.

The National Assembly and the Senate shall be convened in extraordinary session by their respective president on a determined agenda, at the request of the President of the Republic or of the absolute majority of the deputies or of the senators.

The deputies and the senators shall adjourn as soon as the agenda is exhausted.

Article 56

The right to vote of the deputies and of the senators' right to vote shall be personal.

The internal regulation of the National Assembly or of the Senate may exceptionally authorize vote delegation. In this case, no one may receive delegation of more than one mandate.

Article 57

The functioning of the National Assembly or the Senate is determined by an internal regulation adopted in conformity with the Constitution.

Title IV The Executive Power

Subsection I The President of the Republic

Article 58

The President of the Republic is the head of the State. He is the guarantor of national independence and unity, territorial integrity, respect of the Constitution and international treaties and agreements.

He is the guarantor of the continuity of the State and of the institutions of the Republic.

Article 59

The President of the Republic is elected by universal, direct and secret suffrage for a mandate of five (5) years.

He may be reelected.

The President of the Republic shall stay in office until the effective assumption of his functions by his elected successor.

Article 60

The election of the President of the Republic shall take place through uninominal majority vote with one (1) ballot.

The President of the Republic is elected by the majority of the votes cast.

Article 61

The vote shall take place following convocation of the electorate by decree taken in the Council of Ministers (*Conseil des Ministres*) at least sixty (60) days and at the latest seventy-five (75) days before the expiration of the mandate of the President in office.

Article 62

No one may become a candidate for the office of the President of the Republic if one:

- does not exclusively have Togolese nationality by birth;
- is not at least thirty-five (35) years of age on the date of the registration of the candidacy;
- does not enjoy all his civil and political rights;
- does not present a general state of physical and mental health verified by three (3) sworn physicians, designated by the Constitutional Court;
- does not reside in the national territory for at least twelve (12) months.

Article 63

The functions of the President of the Republic are incompatible with the exercise of the parliamentary mandate, of any function of professional representation with national character, and of any private or public, civil or military employment, or of any professional activity.

The President of the Republic shall take office within fifteen (15) days following the official proclamation of the results of the presidential election.

Article 64

Before taking up of his duties, the President of the Republic shall swear during a solemn hearing before the Constitutional Court, the following:

"Before God and before the people of Togo, sole guardians of popular sovereignty, I _____, elected President of the Republic in accordance with the laws of the Republic, solemnly swear:
to respect and defend the Constitution that the people of Togo have freely given themselves;
to loyally fulfill the highest functions with which the Nation has entrusted me;
to be guided solely by the general interest and the respect of the rights of the human person, to devote all forces to the promotion of the development, common property, peace and national unity;
to preserve the integrity of the national territory;
to act at all times as a faithful and loyal servant of the People."

Article 65

In case of a vacancy of the Presidency of the Republic due to death, resignation or definitive incapacity, the presidential function shall be temporarily exercised by the President of the National Assembly.

The vacancy shall be ascertained by the Constitutional Court seized (*saisie*) by the Government. The Government shall convoke the electorate within sixty (60) days of the opening of the vacancy for the election of a new President of the Republic.

Article 66

The President of the Republic shall appoint the Prime Minister (*Premier Ministre*). He shall terminate the functions of the Prime Minister.

Upon the proposal of the Prime Minister, he shall appoint the other members of the Government and shall terminate their functions.

The President of the Republic shall preside over the Council of Ministers.

Article 67

The President of the Republic shall promulgate the laws within fifteen (15) days following the transmission to the Government of the law definitively adopted by the National Assembly; during this time period, he may request a new deliberation of the law or of certain articles, the request must be justified. The new deliberation may not be refused.

Article 68

The President of the Republic, after consultation with the Prime Minister and the President of the National Assembly, may pronounce the dissolution of the National Assembly.

This dissolution may not take place during the first year of the legislature.

A new Assembly shall have to be elected within sixty (60) days following the dissolution.

The National Assembly shall meet as of right on the second Tuesday following its election; if this meeting takes place out of determined periods for the ordinary sessions, a session shall take place as of right for a duration of fifteen (15) days.

A new dissolution may not take place during the year following these elections.

Article 69

The President of the Republic shall sign the ordinances and decrees deliberated upon in the Council of Ministers.

Article 70

The President of the Republic, after deliberation of the Council of Ministers, shall appoint the Grand Chancellor of the National Orders (*Grand Chancelier des Ordres Nationaux*), the Ambassadors and Extraordinary Envoys, the Prefects, the Commanding Officers of the land, sea and air armies and the Directors of the central administrations.

The President of the Republic, by decree taken in the Council of Ministers, shall appoint the University Presidents and the Professors registered on a short list agreed upon by the councils of the universities.

The President of the Republic, by decree taken in the Council of Ministers, shall appoint the General Officers.

The nomination of other employment, by decree of the President of the Republic, may be delegated to the Prime Minister.

Article 71

The President of the Republic shall accredit Ambassadors and Extraordinary Envoys to the foreign powers; Foreign Ambassadors and Extraordinary Envoys shall be accredited to the President.

Article 72

The President of the Republic shall be the head of the Army. He shall preside over the Defence Councils. He shall declare war upon authorization of the National Assembly. He shall decree the general mobilization after consultation with the Prime Minister.

Article 73

The President of the Republic exercises the right of grace after consultation of the High Council of the Judiciary (*Conseil Supérieur de la Magistrature*).

Article 74

The President of the Republic may address messages to the Nation. He shall communicate once per year to the Parliament on the state of the Nation.

Article 75

An organic law shall determine the status of former Presidents of the Republic concerning, in particular, their compensation and security.

Subsection II The Government

Article 76

The Government is composed of the Prime Minister, the Ministers and, in case of need, the Ministers of State, the delegated Ministers and the Secretaries of State.

The functions of a member of the Government are incompatible with the exercise of any parliamentary mandate, of any function of professional representation with national character and of any private or public, civil or military employment or of any other professional activity. An organic law shall determine the status of former members of the Government concerning, in particular, their compensation and security.

Article 77

Under the authority of the President of the Republic, the Government shall determine and conduct the policy of the Nation and shall direct the civil and military administration. It shall have at its disposal the administration, the armed forces and the security forces.
The Government is responsible before the National Assembly.

Article 78

The Prime Minister is the head of the Government. He directs the action of the Government and coordinates the functions of the other members. He presides over the Defence Committees. In case of need, he shall take the place of the President of the Republic in the presidency of the Councils stipulated in Articles 66 and 72 of this Constitution. He shall temporarily take over as head of the State in case of the latter's incapacity due to sickness or absence from the national territory.

Before taking up of his duties, the Prime Minister shall present his Government's plan of action before the National Assembly.

The National Assembly shall give him its confidence by a vote of absolute majority of its members.

Article 79

The Prime Minister shall assure the execution of the laws.
He may delegate certain of his powers to the ministers.

Article 80

The acts of the President of the Republic other than those provided in Articles 4, 66, 68, 73, 74, 98, 100, 104 and 109 of this Constitution are countersigned by the Prime Minister or, if need be, by the Ministers in charge of their execution.

Title V The Relationship between the Government and the Parliament

Article 81

The National Assembly shall vote the law in last resort. It shall control the action of the Government.

The Senate shall receive projects and bills of law for deliberation.

The Senate is obligated to give its opinion before the National Assembly votes on any project or bill of constitutional law, all texts related to the territorial organization of the Republic and bills of law of finance. In all cases, the opinion of the Senate shall be considered as given if it is not pronounced within fifteen (15) days of its seisin (*saisine*) or eight (8) days in case of emergency procedure.

Article 82

The National Assembly shall have control over its agenda. It shall communicate its agenda to the Government.

The inscription, on a priority basis, on the agenda of the National Assembly, of a project or a bill of law or a declaration of general policy, shall be granted to the Government upon its request.

Article 83

The introduction of laws shall lie concurrently in the hands of the deputies and of the Government.

Article 84

The law shall set the rules concerning:

- citizenship, civic rights and the exercise of public freedoms;
- the system for establishing the list of paid and unpaid holidays;
- the constraints related to the needs of the National Defence;
- nationality, the status and legal capacity of persons, matrimony, inheritance and gifts;
- the procedure by which customs shall be verified and harmonized with the fundamental principles of the Constitution;
- the definition of crimes and offenses as well as the penalties applicable to them, criminal procedure, and amnesty;
- the organization of judicial and administrative tribunals and the procedure before these jurisdictions, the status of magistrates, ministerial officers and assistants of justice (*auxiliaries de justice*);
- the determination of the financial competence of constitutional and administrative authorities;
- the tax base, tax rates and the methods of all types of tax collection;
- the regulation of the issuance of currency;
- the electoral system for the National Assembly and Local Assemblies;
- the compensation for public office;
- the nationalization of companies and the transfer of ownership of companies from the public sector to the private sector;
- the creation of categories of public establishments;
- health and population;
- the state of siege and the state of emergency;
- the protection and promotion of the environment and conservation of natural resources;
- the creation, expansion and reclassification of national parks, animal reserves and designated forests;
- the elaboration, execution and supervision of national plans and programs for development;
- the protection of freedom of the press and access to information;
- the status of the political opposition.
- the general organization of the Administration;
- the general status of Public Office;
- the organization of National Defence;
- honorary distinctions;
- teaching and scientific research;
- the integration of national cultural values;
- the regulation of property, property rights and civil and commercial obligations;
- the right to work, to establish labor unions and social institutions;
- the alienation and the administration of the domain of State;
- regulation of penitentiaries;
- mutual plans and saving;
- economic regulation;
- the organization of production;
- the regulation of transportation and communication;
- the free administration of territorial collectivities, their competences and their resources;

- the provisions of this article may be specified (*précisées*) and completed by an organic law .

Article 85

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

Article 86

The Government may, for the execution of its programs, request from the National Assembly the authorization to take by ordinances the measures that are normally the domain of the law, during a limited period of time.

These ordinances shall be taken by the Council of Ministers upon the advice of the Constitutional Court.

The ordinances shall come into force upon their publication, but shall become defunct (*cadaques*) if the bill for ratification is not registered in the National Assembly before the date set by the enabling law .

At the end of the time period defined in the enabling law, these ordinances may only be modified by the law concerning their provisions, which fall in the legislative domain.

Article 87

Projects and bills of law shall be tabled before the board of the National Assembly which shall send them for examination to specialized commissions, the composition and attributions of which are set by the internal regulation of the National Assembly.

Article 88

The projects of laws shall be notified for information to the Government at least eight (8) days before deliberation and vote.

Article 89

The bills of law shall be deliberated upon in the Council of Ministers.

Article 90

The deputies and the Government shall have the right of amendment.

Suggestions and amendments presented by deputies shall not be admissible when their adoption would have, as a consequence, either a diminution of public resources, or the creation or increase of an item of public expenditure, unless these suggestions or amendments are accompanied by propositions of compensatory earnings.

Article 91

The National Assembly shall vote upon finance bills under the conditions provided for by an organic law .

The provisions of such a bill may be enacted by ordinance if the Assembly does not pronounce itself within a time period of forty-five (45) days following the registration of the bill and if the budgetary year is coming to an end. In this case, the Government shall request the convocation of an extraordinary session for the ratification.

If the finance bill has not been introduced in time to be voted on and promulgated before the beginning of the due date (*exercice*), the Prime Minister shall, as a matter of urgency, ask the Assembly for an authorization to resume the budget of the previous year in application of the provisional twelfths system.

Article 92

The projects or bills of organic laws shall be submitted to the deliberation and vote of the National Assembly at the end of a time period of fifteen (15) days after their registration. Organic laws may not be promulgated before a declaration by the Constitutional Court of their conformity with the Constitution.

Article 93

The declaration of war is authorized by the National Assembly.

Article 94

The state of siege as well as the state of urgency is declared by the President of the Republic in the Council of Ministers.

The National Assembly shall then meet as of right if it is not in session.

The extension, beyond fifteen (15) days, of the state of siege or urgency can only be authorized by the National Assembly.

The National Assembly cannot be dissolved during a state of siege or a state of urgency.

An organic law determines the conditions of enforcement of the state of siege and the state of urgency.

Article 95

The meetings of the National Assembly and the Senate shall be public. The integral report of the debates is published in the *Journal Officiel*.

The National Assembly may sit *in camera* at the request of the Prime Minister or at the request of one-fifth (1/5) of the deputies.

Article 96

Members of the Government have access to the National Assembly, the Senate and their committees.

They shall be heard at their request.

They shall also be heard on interpellation, by the National Assembly, on written or oral questions which are addressed to them.

Article 97

The Prime Minister, after deliberation by the Council of Ministers, may commit the responsibility of the Government before the National Assembly with regard to its program or to a declaration of general policy.

The National Assembly, after debate, shall cast a vote. The Government may only be denied a vote of confidence by a majority of two-thirds (2/3) of the deputies of the National Assembly.

In the event that the vote of confidence is refused, the Prime Minister must submit the resignation of the Government to the President of the Republic.

Article 98

The National Assembly may challenge the responsibility of the Government by passing a motion of censure.

Such a motion, in order to be admissible, must be signed by at least one-third (1/3) of the deputies of the National Assembly. The vote may only be called five (5) days after the motion has been introduced.

The National Assembly may only pass a vote to censure the Government by a majority of two-thirds (2/3) of its members.

If the motion of censure is adopted, the Prime Minister shall hand in his resignation of Government.

The President of the Republic shall appoint a new Prime Minister.

If the motion of censure is rejected, its signatories may not propose a new motion during the same session.

Title VI The Constitutional Court

Article 99

The Constitutional Court (*Cour Constitutionnelle*) is the highest jurisdiction of the State in constitutional matters. It shall judge the constitutionality of the law and it shall guarantee the fundamental rights of the human person and of public freedoms. It shall be the regulatory organ for the functioning of the institutions and of the activity of the public powers.

Article 100

The Constitutional Court is composed of nine (9) members designated for seven (7) renewable years.

Three (3) are designated by the President of the Republic including one (1) because of his juridical competence(s).

Three (3) are elected by the National Assembly by a majority of two-thirds (2/3) of its members. They must be chosen from the outside of the deputies. One among them must be designated because of his juridical competence(s).

Three (3) shall be elected by the Senate by a majority of two-thirds (2/3) of its members. They shall be chosen from outside the pool of senators. One among them must be designated because of his juridical competence(s).

Article 101

The President of the Constitutional Court is appointed by the President of the Republic from among the members of the Court for the duration of seven (7) years. He shall have a dominant vote in case the Court is divided.

Article 102

The members of the Constitutional Court, throughout their mandates, cannot be prosecuted or arrested without the authorization of the Constitutional Court except in case of flagrant offense. In such case, the President of the Constitutional Court shall be seized (*saisi*) immediately and at the latest within forty-eight (48) hours.

Article 103

The functions of the members of the Constitutional Court are incompatible with the exercise of any elective mandate, of any public, civil or military employment, of any professional activity as well as of any function of national representation.

An organic law shall determine the organization and the functioning of the Constitutional Court, the procedure to be followed before the Court, in particular the periods of time for its seisin, as well as the immunities and the disciplinary code of its members.

Article 104

The Constitutional Court is the jurisdiction charged with ensuring respect for the disciplines of the Constitution.

The Constitutional Court shall judge the regularity of public consultations by referendum, the presidential, legislative and senatorial elections. It shall judge litigation of cases relating to these consultations and elections.

It is the judge of the constitutionality of laws.

The laws may, before their promulgation, be submitted to the Constitutional Court by the President of the Republic, the Prime Minister, the President of the National Assembly or one-fifth (1/5) of the members of the National Assembly.

For the same purposes, organic laws, before their promulgation, and the internal regulations of the National Assembly and Senate, those of the High Authority on Audiovisual Affairs and Communications (*Haute Autorité de l'Audiovisuel et de la communication*) and of the Economic and Social Council (*Conseil Economique et Social*), before their application, must be submitted to the Constitutional Court.

During a judicial procedure, any physical or juridical person may, *in limine litis*, raise before the courts and tribunals, the exception of the unconstitutionality of a law. In this case, the jurisdiction shall postpone its judgment and call upon the Constitutional Court.

The Constitutional Court must issue a ruling within a month, this period of time may be reduced to eight (8) days in case of urgency.

A text, which has been declared unconstitutional, cannot be promulgated. If it has been implemented, it must be withdrawn by a juridical ordinance.

Article 105

The Constitutional Court delivers opinions on the ordinances taken pursuant to Articles [69](#) and [86](#) of this Constitution.

Article 106

The decisions of the Constitutional Court are not susceptible to any appeal.

They are binding on public authorities and on all civil, military and juridical authorities.

Title VII The Court of Audit

Article 107

The Court of Audit (*Cour des Comptes*) shall judge accounts made by public accountants.

It shall assure the verification of audit and of the administration of public establishments and of public enterprises.

It shall assist the Parliament and the Government in supervising the implementation of finance laws.

It shall prepare all studies on public finance and accounting that are requested by the Government, the National Assembly or the Senate.

The Court of Audit shall give an annual report to the President of the Republic, the Government and the National Assembly which details, if applicable, committed infringements and incurred responsibilities.

Article 108

The Court of Audit is composed of:

- the President (*Premier Président*)
- the Chamber Presidents (*Présidents de Chambre*)
- the Master-Counselors (*Conseillers-Maîtres*)
- the Audit Counselors (*Conseillers Référendaires*)
- and the Auditors (*Auditeurs*).

The public ministry of the Court of Audit shall be directed by the Prosecutor General (*Procureur Général*) and General Attorneys (*Avocats Généraux*).

The number of people employed in these different ranks shall be set by the law .

The President, the Prosecutor General, the General Attorneys, the Chamber Presidents and the Master-Counselors are appointed by decree of the President of the Republic taken in the Council of Ministers.

The Audit Counselors and the Auditors are appointed by the President of the Republic on proposal of the Prime Minister after consultation with the Minister of Finance (*Ministre des Finances*) and favorable opinion by the National Assembly.

Only high-level jurists, Finance, Treasury and Tax inspectors, economic advisors and public accountants who have at least fifteen (15) years experience, may be elected or appointed to the Court of Audit.

Article 109

The President of the Court of Audit shall be elected by his peers for a duration of three (3) renewable years.

Article 110

The members of the Court of Audit shall exercise their functions as magistrates. They shall be irremovable throughout the duration of their mandate.

Article 111

The functions of members of the Court of Audit are incompatible with the elected mandate, of any public, civil or military employment, of any other professional activity as well as of any office of national representation.

An organic law shall determine the organization and the functioning of the Court of Audit.

Title VIII The Judicial Power

Subsection I General Provisions

Article 112

Justice shall be rendered on the territory of the Republic in the name of the people of Togo.

Article 113

Judicial Power is independent from the Legislative and Executive Powers.

Judges are subjected only in the exercise of their functions to the authority of the law .

The Judicial Power protects individual freedoms and the fundamental rights of citizens.

Article 114

Judges (*Magistrats du siege*) are irremovable.

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Article 115

The President of the Republic is the guarantor of the independence of the judiciary. He is assisted in this matter by the High Council of the Judiciary.

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Article 116

The High Council of the Judiciary is composed of nine (9) members:

- three (3) magistrates of the Supreme Court (*Cour Suprême*);
- four (4) magistrates of the Court of Appeals and Tribunals (*Cours d'Appel et des Tribunaux*);
- a deputy elected by the National Assembly by ballot;
- a personality who does not belong to the National Assembly, nor to the Government, nor to the Judiciary, chosen by the President of the Republic because of his competence.

The Council shall be presided over by the President of the Supreme Court.

The judges, who are members of the Council, except for the President of the Supreme Court, a member as of right, shall be elected by their peers through secret ballot.

The members of the High Council of the Judiciary shall be appointed for a four (4) year mandate renewable only once.

Article 117

The High Council of the Judiciary serves as a disciplinary council for magistrates.

The applicable sanctions as well as the procedure shall be set by an organic law serving as statute of the Judiciary.

The organization and the functioning of the High Council of the Judiciary shall be set by an organic law.

Article 118

The recruitment of any magistrate shall be done on proposition of the Keeper of the Seal (*Garde des Sceaux*), Minister of Justice (*Ministre de la Justice*), upon consultation with the High Council of the Judiciary.

The nomination of judges shall be done by decree taken in the Council of Ministers on proposal of the High Council of the Judiciary.

The nomination of public prosecutors shall be done by decree taken in the Council of Ministers on proposition of the Keeper of the Seals, Minister of Justice, upon consultation with the High Council of the Judiciary.

Active magistrates may not fulfill any other public office, nor exercise lucrative private activities besides those cases provided by the law, nor take part in political activities.

An organic law shall set the status of magistrates and their compensation in accordance with the requirements of independence and efficacy.

Article 119

The principles of jurisdictional unity and the separation of litigation are the basis of the organization and functioning of the administrative and judicial jurisdictions.

The law shall organize the military jurisdiction in accordance with the principles of the Constitution.

Jurisdictions of exception are prohibited.

Subsection II The Supreme Court

Article 120

The Supreme Court (*Cour Suprême*) is the highest jurisdiction of the State in judicial and administrative matters.

Article 121

The President of the Supreme Court is of necessity a professional magistrate. He is appointed by a decree of the President of the Republic taken in the Council of Ministers on the proposal of the High Council of the Judiciary.

Before taking up his duties, he shall swear before the Board (*Bureau*) of the National Assembly the following:

"I swear to properly and faithfully fulfill my function, to exercise it with complete impartiality, respecting the Constitution, guarding the secrecy of deliberations and votes, not to take any public position and not to give any private consultation on questions falling under the competence of the Court, and to conduct myself at all times as a solemn and loyal magistrate."

Article 122

The magistrates of the Supreme Court may be prosecuted for crimes and offenses committed in the exercise or in the occasion or out of their functions only before the High Court of Justice (*Haute Cour de Justice*).

Except in case of a flagrant offense, no magistrate of the Supreme Court may be prosecuted or judged without the prior authorization of the High Council of the Judiciary.

An organic law shall determine the conditions of organization and functioning of the Supreme Court.

Article 123

The Supreme Court shall be composed of two chambers:

- the judicial chamber
- the administrative chamber.

Each of these chambers constitutes an autonomous jurisdiction in the Supreme Court and is composed of a Chamber President and of Counselors.

The President of the Supreme Court presides over the joint chambers.

The public ministry of each chamber is entrusted to the prosecutor general of the Supreme Court composed of the prosecutor general and general attorneys.

Article 124

The judicial chamber of the Supreme Court has competence over the following matters:

- appeals filed against the decisions given by the civil, commercial, social and criminal jurisdictions and which have been heard by the Court of Appeals or which were rendered without the possibility of appeal before the Court of Appeals.
- actions against the magistrates of the Court of Appeals according to the provisions of the *Code of Civil Procedure*.
- criminal prosecutions against the magistrates of the Court of Appeals according to the provisions of the *Code of Criminal Procedure*.
- requests for review (*révision*) and judicial regulation.

Article 125

- The administrative chamber of the Supreme Court has competence over the following matters:
- appeals filed against decisions rendered in matters of administrative disputes;
 - appeals for abuse of power filed against administrative acts;
 - disputes over local elections;
 - final appeals (*cassation*) against the decisions of [State] organs ruling in disciplinary matters.

Subsection III The High Court of Justice

Article 126

The High Court of Justice (*Haute Cour de Justice*) is composed of the President and the Chamber Presidents of the Supreme Court and of four (4) deputies elected by the National Assembly.

The High Court of Justice elects its President from among its members.

An organic law shall set the regulations for its functioning as well as the procedure to be followed before it.

Article 127

The High Court of Justice is the only jurisdiction with competence to judge infringements (*infractions*) committed by the President of the Republic.

The President of the Republic shall not be held politically liable except in case of high treason.

The High Court of Justice is competent to judge the members of the Government and their accomplices in case of conspiracy against the surety (*sûreté*) of the State.

Article 128

The High Court of Justice has competence over crimes and offenses committed by members of the Supreme Court.

Article 129

The High Court of Justice is bound by the definition of crimes and offenses as well as by the determination of their penalties as provided by the criminal laws, which were applicable when the acts were committed.

The decision to prosecute as well as the arraignment of the President of the Republic and of the members of the Government shall be voted upon by a majority of four-fifths (4/5) of the members of each of the two assemblies of Parliament, according to the procedure provided by an organic law.

In case of conviction, they shall be discharged.

Title IX The High Authority on Audiovisual Affairs and Communication

Article 130

The High Authority on Audiovisual Affairs and Communication (*Haute Autorité de l'Audiovisuel et de la Communication*) shall have for its mission to guarantee and assure the freedom and protection of the press and of the other means of mass communication.

It shall watch over in respect of the code of ethical practice in the fields of information and communication and of equal access by political parties and associations to the official means of information and communication.

The High Authority on Audiovisual Affairs and Communication is competent to authorize the installation of new private television channels and radio stations.

Article 131

The High Authority on Audiovisual Affairs and Communication elects from among its members its President and the members of its board.

The composition, organization and functioning of the High Authority on Audiovisual Affairs and Communication shall be set by an organic law .

Title X The Economic and Social Council

Article 132

The Economic and Social Council (*Conseil Economique et Social*) is charged with giving its opinion on all questions presented to it for examination by the President of the Republic, the Government, the National Assembly, the Senate or any other public institution.

The Economic and Social Council shall be consulted, for its opinion, on any project of an economic and social plan or program as well as on any draft text of a fiscal, economic or social character.

It may also analyze any problem of economic and social development.

It shall submit its conclusions to the President of the Republic, the Government, the National Assembly and the Senate.

It shall follow the execution of the decisions of the Government regarding economic and social organization.

Article 133

The Economic and Social Council may designate one of its members, at the request of the President of the Republic, the Government, the National Assembly or the Senate, to present before these organs the opinion of the Council on the projects or proposals that have been submitted to it.

Article 134

The Economic and Social Council shall elect from among its members its President and the members of its board.

Article 135

The Economic and Social Council shall maintain a branch (*section*) in each economic region of the country.

Article 136

The composition, organization and functioning of the Economic and Social Council as well as its branches shall be set by an organic law .

Title XI International Treaties and Agreements

Article 137

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

Article 138

Peace treaties, commercial treaties, treaties relating to international organizations, those that involve use of the State's finances, those that modify the provisions of a legislative nature, those relating to the state of people and to Human Rights, those that involve cession, exchange or addition of territory, shall only be ratified pursuant to a law.

Such treaties shall only take effect after having been ratified and published.

No cession, no exchange or addition of territory shall be valid without the consent of the population concerned.

Article 139

When the Constitutional Court, seized by the President of the Republic, the Prime Minister or the President of the National Assembly, has declared that an international obligation contains a clause which is contrary to the Constitution, the authorization to ratify or approve it shall only occur after the revision of the Constitution.

Article 140

Upon their publication, regularly ratified or approved treaties or agreements shall have superior authority to laws, conditioned upon, each agreement or treaty being applied by the other party.

Title XII Territorial Collectivities and the Traditional Chefferie

Article 141

The Republic of Togo (*République Togolaise*) shall be organized in territorial collectivities on the basis of the principle of decentralization in respect of the national unity.

These territorial collectivities are the communes, the prefectures and the regions.

Any other territorial collectivity shall be created by the law.

The territorial collectivities shall govern themselves freely by means of councils elected by universal suffrage, under the conditions provided by the law.

Article 142

The State shall watch the harmonious development of all territorial collectivities on the basis of national solidarity, regional potentialities and inter-regional equilibrium.

Article 143

The State of Togo recognizes the traditional *chefferie*, [as] guardian of ways and customs.

The designation and the installation (*intronsation*) of the traditional chief (*chef*) shall abide by the ways and customs of the locality.

Title XIII Revision

Article 144

The initiative for revision of the Constitution belongs concurrently to the President of the Republic and to at least one-fifth (1/5) of the deputies composing the National Assembly.

The project or bill for revision shall be considered adopted if it is voted upon by a majority of four-fifths (4/5) of the deputies composing the National Assembly.
When this majority is not reached, the project or bill for revision adopted by a majority of two-thirds (2/3) of the deputies composing the National Assembly shall be submitted to referendum. The President of the Republic may submit any constitutional law bill to referendum.
No procedure for revision can be engaged in or pursued during an interim period or a vacancy or when the integrity of the territory is being violated.
The Republican form of the State and the State's secularity shall not be subject to revision.

Title XIV Special Provisions

Article 145

The President of the Republic, the Prime Minister, the members of the Government, the President and members of the board of the National Assembly and the Senate, and the Directors of the central administrations and public enterprises shall provide to the Supreme Court a declaration of their property and assets at the beginning and end of their mandates or functions. A law shall determine the conditions for the implementation of the present provision.

Article 146

The source of all legitimacy shall arise from this Constitution.

Article 147

The Armed Forces of Togo are a national, republican and apolitical army. They shall be entirely subject to the regularly established political constitutional authority.

Article 148

Any attempt to overthrow the constitutional regime using personnel from the Public Security or Armed Forces, by any individual or group of individuals, shall be considered an imprescriptible crime against the Nation and shall be punished in accordance with the laws of the Republic.

Article 149

Other than for the defense of the territory and work of public utility, the Armed Forces may only be engaged insofar as this Constitution expressly authorizes it.
In case of conflict with another State, the Armed Forces are authorized (*habilités*) to protect civil objectives and to carry out police missions, insofar as their defense missions for territorial integrity requires it. In such a case, the Armed Forces shall cooperate with the police authorities.
In case of armed rebellion and if the Police and Security Forces cannot, by themselves, maintain public order, the Government may, to prevent the danger threatening the existence of the Republic or the democratic constitutional order, engage the Armed Forces to assist the Police and Security Forces in the protection of civil objectives and the struggle against rebels.
In any case, the Government shall disengage the Armed Forces as soon as the National Assembly requests it.

Article 150

In case of a *coup d'état*, or any other forcible coup, any member of the Government or of the National Assembly shall have the right and duty to call upon all means to reestablish

constitutional legitimacy, including recourse to existing agreements of military or defense cooperation.

In these circumstances, for all Togolese, disobeying and organizing oneself to defeat the illegitimate authority constitutes the most sacred of rights and the most imperative of duties. Any overthrow of the constitutional regime is considered to be an imprescriptible crime against the Nation and shall be punished in accordance with the laws of the Republic.

Title XV The National Commission of Human Rights and the Mediator of the Republic

Subsection I The National Commission of Human Rights

Article 151 The constitution must be promulgated within the eight (8) days following its adoption by referendum

Article 152

A National Commission of Human Rights (*Commission Nationale des Droits de l'Homme*) is created. It shall be independent. It shall only be subjected to the Constitution and to the law. The composition, organization and functioning of the National Commission of Human Rights shall be set by an organic law.

Article 153

No member of the Government or the Parliament or any other person may interfere with the exercise of the functions of the National Commission of Human Rights and all other State organs shall give it the assistance it may need to preserve its independence, dignity and efficacy.

Subsection II The Mediator of the Republic

Article 154

A Mediator of the Republic (*Médiateur de la République*) in charge of solving non-judicial conflicts between citizens and the administration is instituted. The Mediator of the Republic shall be an independent administrative authority appointed by decree taken in the Council of Ministers for a renewable mandate of three (3) years. The composition, organization and functioning of the Mediator of the Republic shall be set by an organic law.

Title XVI Transitory Provisions

Article 155

The competences conferred on the Senate for the designation of the members of the Constitutional Court shall be exercised by the National Assembly until the installation of the Senate. Thus they are designated for a mandate of seven (7) years.

Article 156

The present members of the Constitutional Court shall retain their functions until the installation of new members.

Article 157

Until the Senate is installed, the National Assembly shall alone exercise the legislative power of the Parliament.

Article 158

The legislation in force in Togo until the installation of the new institutions shall remain applicable, except in case of intervention of new texts and insofar as it does not contain anything that is contrary to this Constitution.

Title XVII Final Provisions

Article 159

This Constitution shall be executed as the Fundamental Law of the Republic of Togo. Constitution adopted by referendum on September 27, 1992 and revised by [Law No. 2002-029 of December 31, 2002](#).