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# **Togo's Constitution of 1992 with Amendments through 2007**

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## preamble

We, the Togolese people, placing ourselves under the protection of God,

- conscious that since its accession to international sovereignty [on] 27 April 1960, Togo, our country, has been marked by profound socio-political mutation on its march towards progress,

- conscious of the solidarity that binds us to the international community and most particularly to the African peoples,

- committed to build a State of Law in which the fundamental rights of Man, the public freedoms and the dignity of the human person must be guaranteed and protected,

- convinced that such a State can only be founded on political pluralism, the principles of Democracy and the protection of the Rights of Man such as are defined by the Charter of the United Nations of 1945, the Universal Declaration of the Rights of Man of 1948 and the International Pacts of 1966, [and] the African Charter of the Rights of Man and of Peoples adopted in 1981 by the Organization of African Unity,

\* we proclaim solemnly our firm will to combat any political regime founded on arbitrariness, dictatorship [and] injustice,

\* we affirm our determination to cooperate in peace, amity and solidarity with all people of the world enamored of the democratic ideal, on the basis of the principles of equality, of mutual respect and of sovereignty,

\* we engage resolutely to defend the cause of National Unity, of African Unity and to work for the realization of sub-regional and regional integration,

\* we approve and adopt, solemnly, this Constitution as Fundamental Law of the State[,] of which this preamble is made [an] integral part.

# TITLE I

## The STATE AND of SOVEREIGNTY

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### Article 1

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

### Article 2

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

It respects all political opinions, 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: "Travail-Liberté-Patrie" [Work-Freedom-Country]

### Article 3

The national emblem is the flag composed of five horizontal bands[,] alternated of green and yellow color. It bears on the superior left corner a white star of five points on a square red field.

The national holiday of the Togolese Republic is celebrated [on] 27 April of each year.

The seal of the State is constituted by a metal plaque in bas relief of round form of 50 millimeters in diameter and designed to be printed [as] the mark of the State on [its] acts.

It has on the reverse, for type, the arms of the Republic that, for [the] legend, "Au nom du Peuple Togolaise" [In the name of the Togolese people] and for the inscription, "République Togolaise" [Togolese Republic].

The coat-of-arms of the Togolese Republic is composed of:

- [A] shield of silver of oval form and at the border of sinople, above[,] the national emblem, two flags back to back and the motto on a banderole; in the center[,] of sable, the initials of the Republic of Togo on a golden background; below, two lions of gules back-to-back.

The two young lions represent the courage of the Togolese People. They hold the bow and the arrow, [the] means traditional combat, to demonstrate that the true liberty of the Togolese people is in their hands and that its strength resides above all in their own traditions. The lions rampant and back-to-back express the vigilance of the Togolese people in the guarding of their independence, from the East to the 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 to the people. It is exercise by their representatives and by way of referendum. No section of the people, no body of the State, no individual may arrogate its exercise.

The initiative of referendum belongs, concurrently, to the people and to the President of the Republic.

A referendum of popular initiative may be organized on the demand of at least five hundred thousand (500,000) electors representing more than half of the prefectures. More than fifty thousand (50,000) between them must not be inscribed on the electoral lists of one same prefecture. The demand must be carried on one same text. Its regularity is determined by the Constitutional Court.

## Article 5

Suffrage is universal, equal and secret. It may be direct or indirect. All Togolese nationals of the two sexes, at least eighteen (18) years of age and enjoying their civil and political rights[,] are electors within the conditions established by the law.

## Article 6

The political parties and groups of political parties concur in the formation and the expression of the political will of the people.

They form themselves freely and exercise their activities within respect for the laws and regulations.

## Article 7

The political parties and groups of political parties must respect the Constitution.

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

## Article 8

The political parties and the groups of political parties 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 creation and of functioning of political parties.

## **TITLE II**

# **Of the RIGHTS, FREEDOMS AND DUTIES of the CITIZENS**

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### **SUB TITLE I Of the RIGHTS AND FREEDOMS**

#### ***Article 10***

Every human being carries within them inalienable and imprescriptible rights.

The safeguarding of these rights is the objective of any human community. The State has the obligation to respect them, to guarantee them and to protect them.

Moral persons may enjoy the rights guaranteed by this Constitution to the extent these rights are compatible with their nature.

#### ***Article 11***

All human beings are equal in dignity and in right.

The man and the woman are equal before the law.

No one may be favored or disadvantaged for reason of their familial, ethnic or regional origin, of their economic or social situation, of their political, religious, philosophical or other convictions.

#### ***Article 12***

Every human being has the right to development, to the physical, intellectual, moral and cultural fulfillment of their person.

#### ***Article 13***

The State has the obligation to guarantee the physical and mental integrity, the life and the security of every living person 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 may only be subject to the restrictions expressly provided by the law and necessary for the protection of the national security, of the public order, of the public health, of morality or of the fundamental rights and freedoms of others.

#### ***Article 15***

No one may be arbitrarily arrested or detained. Whoever is arrested without legal basis or detained longer than the time period of arrest may, on their request or that of any interested person, refer [the matter] to the judicial authority designated to this effect by the law.

The judicial authority decides without delay on the legality or the regularity of their detention.

**Article 16**

Every accused person or detained [person] must benefit from a treatment that preserves their dignity, their physical and mental health and that aids their social rehabilitation

No one has the right to obstruct an accused person or detained [person] from being examined by a doctor of their choice.

Every accused [person] has the right to be assisted by counsel at the stage of the preliminary inquiry.

**Article 17**

Every person arrested has the right to be immediately informed of the charges brought against them.

**Article 18**

Any accused [person] or suspected [person] is presumed innocent until their culpability has been established following a process that offers them the guarantees indispensable to their defense.

The judicial power, guardian of the individual liberty, assures respect for this principle within the conditions provided for by the law.

**Article 19**

Every person has the right in any matter that their cause will be heard and resolved equitably within a reasonable time by an independent and impartial jurisdiction.

No one may be condemned for acts that did not constitute an infraction at the moment when they were committed.

Outside of the cases provided by the law, no one may be investigated or condemned for the acts blamed on others.

The damages resulting from an error of justice or those brought about by an abnormal functioning of the administration of justice give rise to an indemnification at the expense of the State, in accordance with the law.

**Article 20**

No one may be submitted to measures of control or of security outside of the cases provided for by the law.

**Article 21**

The human person is sacred and inviolable.

No one may be submitted to torture or to other forms of cruel, inhuman or degrading treatments.

No one may evade the punishment incurred by committing such violations by invoking the order of a superior or [that] of a public authority.

Any individual, [or] any agent of the State, culpable of such acts, either on their own initiative, or on instruction, will be punished in accordance with the law.

Any individual, [or] any agent of the State is relieved of the duty of obedience when the order received constitutes a grave and manifest infringement of the respect of the Rights of Man and of the public freedoms.

**Article 22**

Every Togolese citizen has the right to circulate freely and to establish themselves in the national territory in any place of their choice within the conditions defined by the law or local custom.

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

Any foreigner[,] in regular situation[,] on the Togolese territory and who conforms to the laws in force has the freedom to circulate and to choose their residence and the right to leave it freely.

**Article 23**

A foreigner may only be deported or extradited from the Togolese territory by virtue of a decision conforming to the law. They must have the possibility to present their defense before the competent judicial authority.

**Article 24**

No Togolese may be extradited from the national territory.

**Article 25**

Every person has the right to the freedom of thought, of conscience, of religion, of belief, of opinion and of expression. The exercise of these rights and freedoms is made within respect for the freedoms of others, of the public order and of the norms established by the law and the regulations.

The organization and the practice of religious beliefs is exercised freely within respect for the law. It is the same for the philosophical orders.

The exercise of belief and of expression of belief is done within respect for the secularity of the State.

The religious denominations have the right to organize themselves and to exercise their activities freely within respect for the law.

**Article 26**

The freedom of the press is recognized and guaranteed by the State. It is protected by the law.

Every person has the freedom to express and to disseminate through speech, writing or any other means, their opinions or the information which they possess, within respect for the limits defined by the law.

The press may not be subject to prior authorization, to caution [bail/security], to censorship or to other restraints. The prohibition of dissemination of any publication may only be pronounced by virtue of a decision of justice.

**Article 27**

The right to property is guaranteed by the law. It may only be infringed for the cause of public utility legally declared and after a just and prior indemnification.

One's assets may only be seized by virtue of a decision taken by a judicial authority.

**Article 28**

The domicile is inviolable.

It may only be made the object of a search or of a police entry in the forms and conditions provided for by the law.

Every citizen has the right to respect for their private life, of their honor, of their dignity and of their image.

**Article 29**

The State guarantees the secrecy of correspondence and of telecommunications.

Any citizen has the right to the secrecy of their correspondence and their communications and telecommunications.

**Article 30**

The State recognizes and guarantees within the conditions established by the law, the exercise of the freedoms of association, of assembly and of peaceful demonstration without instruments of violence.

The State recognizes private denominational and secular instruction.

**Article 31**

The State has the obligation to assure the protection of marriage and of the family.

Parents have the duty to provide for the support and the education of their children. They are supported in this task by the State.

Children, whether they are born within marriage or outside of marriage, have the right to the same familial and social protection.

**Article 32**

The Togolese nationality is attributed of right to the children born of a Togolese father or mother.

The other cases of attribution of the nationality are regulated by the law.

**Article 33**

The State takes or enforces in favor of handicapped persons and of aged persons measures susceptible to shelter them from social injustices.

**Article 34**

The State recognizes to the citizens the right to health. It works to promote it.

**Article 35**

The State recognizes the right to education of children and creates conditions favorable to accomplish this objective.

School is obligatory for children of the two sexes until the age of 15 years.

The State assures progressively the gratuity of public education.

**Article 36**

The State protects youth against any form of exploitation or of manipulation.

**Article 37**

The State recognizes to every citizen the right to work and strives to create the conditions for effective enjoyment of this right.

It assures to each citizen the equality of opportunity concerning employment and guarantees to each worker a just and equitable remuneration.

No one may be disadvantaged in their work for reason of their sex, of their origin, of their beliefs or of their opinions.



**Article 38**

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

**Article 39**

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

The workers may constitute unions or affiliate with the unions of their choice.

Any worker may defend, within the conditions provided for by the law, their rights and interests, either individually, collectively or by union action.

**Article 40**

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

**Article 41**

Every person has the right to a healthy environment. The State sees to the protection of the environment.

**SUB TITLE II Of the DUTIES****Article 42**

Every citizen has the sacred duty to respect the Constitution as well as the laws and regulations of the Republic.

**Article 43**

The defense of the country and the integrity of the national territory is a sacred duty of every citizen.

**Article 44**

Every citizen has the duty of rendering national service within the conditions defined by the law.

**Article 45**

Every citizen has the duty to combat any person or group of persons who should attempt to change by force the democratic order established by this Constitution.

**Article 46**

The public assets are inviolable.

Any person or any public agent must scrupulously respect the and protect them.

Any act of sabotage, of vandalism, of embezzlement of public assets, of corruption, [or] of dilapidation is punished within the conditions provided by the law.

**Article 47**

Every citizen has the duty to contribute to the public expenses within the conditions defined by the law.

**Article 48**

Every citizen has the duty to see to respect for the rights and freedoms of other citizens and of the safeguarding of the public security and of the [public] order.

[They] work for the promotion of tolerance and of dialogue in their relations with others. [They] have the obligation to preserve the national interest, the social order, peace, and national cohesion.

Any act or any manifestation of a racist, regionalist, [or] xenophobic character is punished by the law.

**Article 49**

The Forces of Security and of Police, under the authority of the Government, have for [their] mission to protect the free exercise of the rights and of the freedoms, and to guarantee the security of citizens and of their assets.

**Article 50**

The rights and duties, stated in the Universal Declaration of the Rights of Man and in the international instruments relative to the Rights of Man, ratified by Togo, are an integral part of this Constitution.

## TITLE III

# Of the LEGISLATIVE POWER

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### Article 51

The legislative power, delegated by the people, is exercised by a Parliament composed of two assemblies, the National Assembly and the Senate.

The members of the National Assembly have the title of deputy and those of the Senate have the title of Senator.

### Article 52

The deputies are elected by universal, direct and secret suffrage for five (05) years. They are reeligible. Each deputy is the representative of all of the entire Nation. Any imperative mandate is null.

The elections take place within the thirty (30) days preceding the expiration of the mandate of the deputies. The National Assembly meets of plain right [on] the second Tuesday which follows the date of the official proclamation of the results.

Any member of the armed forces or the [forces] of public security, who desires to be a candidate to the functions of deputy, must, first, submit their resignation from the armed forces or the [forces] of public security.

In this case, the interested [person] may claim the benefit of the rights acquired in accordance with the statutes of their corps.

An organic law establishes the number of deputies, their indemnities, the conditions of eligibility, the regime of the incompatibilities and the conditions under which vacant seats are provided for.

An organic law determines the status of the former deputies.

The Senate is composed[,] of two-thirds (2/3) by noted persons elected by the representatives of the territorial collectivities[,] and of one-third (1/3) by noted persons appointed by the President of the Republic.

The duration of the mandate of the senators is of five (05) years.

An organic law establishes the number of the senators, their indemnities, the conditions of eligibility or of appointment, the regime of the incompatibilities and the conditions under which vacant seats are provided for.

An organic law determines the status of the former senators.

The departing members of the National Assembly and of the Senate, whether by conclusion of the mandate or dissolution, remain in office until their successors effectively take office.

## Article 53

The deputies and senators enjoy parliamentary immunity.

No deputy, [and] no senator may be prosecuted, investigated, arrested, detained or judged as a result of the opinions or of the votes emitted by then in the exercise of their functions, even after the expiration of their mandate.

Except in case of flagrante delicto, the deputies and the senators may only be arrested or prosecuted for crimes or offenses after the lifting, by their respective Assembly, of their parliamentary immunity.

Any procedure [concerning] flagrante delicto engaged against a deputy or against a senator is brought without delay to the knowledge of the bureau of their Assembly. A deputy or a senator may not, out of session, be arrested without the authorization of the bureau of the Assembly to which they belong.

The detention or the prosecution of a deputy or a senator is suspended if the Assembly to which they belong requires it.

## Article 54

The National Assembly and the Senate are each directed by a president assisted by a bureau. The presidents and the bureaus are elected for the duration of the legislature within the conditions established by the internal regulations of each Assembly.

In case of vacancy of the presidency of the National Assembly or of the Senate, by death, resignation or any other cause, the National Assembly or the Senate elects a new president within the fifteen (15) days which follow the vacancy, if it is in session; in the contrary case, it meets of plain right within the conditions established by its internal regulations.

The replacement of the other members of the bureaus is provided for in accordance with the provisions of the internal regulations of each Assembly.

An organic law determines the status of the former presidents of the National Assembly and of the Senate, notably, as it concerns their remuneration and their security.

## Article 55

The National Assembly meets of plain right in two (02) ordinary sessions per year.

The first session opens [on] the first Tuesday of April.

The second session opens [on] the first Tuesday of October.

The Senate meets of plain right in two (02) ordinary sessions per year.

The first session opens [on] the first Thursday of April.

The second session opens [on] the first Thursday of October.

Each of the sessions lasts three (03) months.

The National Assembly and the Senate are convoked in extraordinary session by their respective president on a specific agenda, at the demand of the President of the Republic or of the absolute majority of the deputies or of the senators.

The deputies or the senators adjourn as soon as the agenda is exhausted.

## Article 56

The right to vote of the deputies and of the senators is personal.

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

## Article 57

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

## TITLE IV

# Of the EXECUTIVE POWER

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### SUB TITLE I Of the PRESIDENT OF THE REPUBLIC

#### *Article 58*

The President of the Republic is the Head of the State. He is the guarantor of the national independence and [national] unity, of the territorial integrity, of the respect for the Constitution and of the 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 (05) years.

He is reeligible.

The President of the Republic remains in office until the effective taking of office of his elected successor.

#### *Article 60*

The election of the President of the Republic takes place by uninominal majority ballot in one (01) round.

The President of the Republic is elected with the majority of the suffrage expressed.

#### *Article 61*

The vote is opened on convocation of the electoral body by decree taken in the Council of Ministers sixty (60) days at least and seventy-five (75) days at most before the expiration of the mandate of the President in office.

#### *Article 62*

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

- are not exclusively of Togolese nationality by birth;
- are not thirty-five (35) years of age on the date of the deposit of the candidature;
- do not enjoy all their civil and political rights;
- do not present a general state of physical and mental well-being duly declared by three (03) sworn physicians, designated by the Constitutional Court;
- do 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 enters office within the fifteen days which follow the proclamation of the results of the presidential election.

**Article 64**

Before his entry into office, the President of the Republic swears before the Constitutional Court meeting in solemn hearing, in these terms:

"Before God and before the Togolese people, sole holders of popular sovereignty, We \_\_\_\_, elected President of the Republic in accordance with the laws of the Republic, solemnly swear.

- to respect and to defend the Constitution that the Togolese people have freely given themselves;
- to loyally fulfill the high functions that the Nation has confided in us.
- to be guided solely by the general interest and the respect of the rights of the human person, to consecrate all our forces to the promotion of development, of the common good, of peace and of national unity;
- to preserve the integrity of the national territory;
- to conduct our self 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 by death, resignation or definitive incapacity, the presidential function is exercised provisionally by the President of the National Assembly.

The vacancy is declared by the Constitutional Court referred to [the matter] by the Government.

The Government convokes the electoral body within the 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 appoints the Prime Minister. He terminates his functions.

On proposal of the Prime Minister, he appoints the other members of the Government and terminates their functions.

The President of the Republic presides over the Council of Ministers.

**Article 67**

The President of the Republic promulgates the laws within the fifteen (15) days which follow the transmission to the Government of the law definitively adopted by the National Assembly; during this time period, he can demand a new deliberation of the law or of certain of its articles[;] the demand must be substantiated. The new deliberation may not be refused.

**Article 68**

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

This dissolution may not intervene within the first year of the legislature.

A new Assembly must be elected within the sixty days which follow the dissolution.

The National Assembly meets of plain right [on] the second Tuesday which follows its election; if this meeting takes place outside of the periods provided for the ordinary sessions, a session is opened of right for a time period of fifteen days.

It may not proceed to a new dissolution within the year which follows these elections.

**Article 69**

The President of the Republic signs the ordinances and the decrees deliberated in the Council of Ministers.

**Article 70**

The President of the Republic, after deliberation of the Council of Ministers[,], appoints the Grand Chancellor of the National Orders [Grand Chancelier des Ordres Nationaux], the Ambassadors and Extraordinary Envoys, the Prefects, the Commanding Officers of the Armies of the land, of the sea and of the air and the Directors of the central administrations.

The President of the Republic, by decree taken in the Council of Ministers, appoints the Presidents of the Universities and the Professors inscribed on a list of aptitude recognized by the councils of the universities.

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

The other offices are provided for by decree of the President of the Republic who may delegate this power of appointment to the Prime Minister.

**Article 71**

The President of the Republic accredits the Ambassadors and extraordinary envoys to the foreign powers; the foreign Ambassadors and the extraordinary envoys are accredited to him.

**Article 72**

The President of the Republic is the head of the Army. He presides over the Councils of Defense. He declares war on authorization of the National Assembly. He decrees the general mobilization after consultation of the Prime Minister.

**Article 73**

The President of the Republic exercises the right of pardon after the opinion of the Superior Council of the Magistrature.

**Article 74**

The President of the Republic can address messages to the Nation. He addresses[,], one time per year[,], the Parliament on the state of the Nation.

**Article 75**

An organic law determines the status of the former Presidents of the Republic, notably that which concerns their remuneration and their security.



## SUB TITLE II Of the GOVERNMENT

### **Article 76**

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

The functions of member of the Government are incompatible with the exercise of any parliamentary mandate, of any function of professional representation of national character and of any private or public, civil or military office or of any other professional activity.

An organic law determines the status of the former members of the Government, notably in that which concerns their remuneration and their security.

### **Article 77**

Under the authority of the President of the Republic, the Government determines and conducts the policy of the Nation and directs the civil and military administration. It has at its disposal the administration, the armed forces and the forces of security.

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 Committees of Defense. He substitutes for, the case arising, the President of the Republic in the presidency of the Councils provided for in

Articles 66 and 72 of this Constitution. He assures the interim of the head of the State in case of incapacity for cause of illness or of absence from the national territory.

Before his entry into office, the Prime Minister presents before the National Assembly the program of action of his Government.

The National Assembly accords its confidence to him by a vote with the absolute majority of its members.

### **Article 79**

The Prime Minister assures 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 for in Articles 4, 66, 68, 73, 74, 98, 100, 104 and 109 of this Constitution, are countersigned by the Prime Minister or, the case arising, by the Ministers given the charge of their execution.

## TITLE V

# Of the RELATIONS BETWEEN THE GOVERNMENT AND THE PARLIAMENT

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### Article 81

The National Assembly votes the law in last resort.

It controls the action of the Government.

The Senate receives the bills and the proposals of law for deliberation.

The Senate gives its opinion obligatorily before the vote by the National Assembly on any bill or proposal of constitutional law, of all the texts relative to the territorial organization of the Republic and of the bill of the law of finance. In all cases, the opinion of the Senate is considered as given if it is not pronounced within the fifteen (15) days of its referral to [the matter] or eight (08) days in case of procedure of urgency.

### Article 82

The National Assembly has control over its agenda. It informs the Government of it.

The inscription, by priority, in the agenda of the National Assembly, of a bill or a proposal of law or of a declaration of general policy, is of right if the Government makes demand for it.

### Article 83

The initiative of laws belongs concurrently to the deputies and to the Government.

### Article 84

The law establishes the rules concerning:

- citizenship, the civic rights and the exercise of the public freedoms;  
the system of establishment of the list of paid and unpaid holidays;  
the constraints raised by the necessities of the National Defense;  
nationality, the status and the capacity of persons, the matrimonial regimes, inheritance and gifts;  
the procedure following which customs are declared and harmonized with the fundamental principles of the Constitution;  
the determination of crimes and offenses as well as the penalties applicable to them, the criminal procedure, [and] amnesty;  
the organization of the judicial and administrative tribunals and the procedure before these jurisdictions, the status of the magistrates, of the ministerial officers and of the auxiliaries of justice;  
the determination of the financial competences of the constitutional and administrative authorities;  
the base, the rates and the modalities of collection of the taxes of all natures;  
the regulation of the issuance of the currency;  
the electoral regimes of the National Assembly and of the Local Assemblies;  
the remuneration of the public functions;  
the nationalization of enterprises and the transfer of ownership of enterprises of 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 urgency;  
the protection and the promotion of the environment and the conservation of the natural resources;  
the creation, the expansion and the declassification of the national parks, [and] of the animal reserves and of the designated forests;  
the drafting, the execution and the supervision of national plans and programs of development;  
the protection of the freedom of the press and the access to information;  
the status of the opposition.  
the general organization of the Administration;  
the general status of the Public Function;  
the organization of the National Defense;  
honorary distinctions;  
teaching and Scientific Research;  
the integration of national cultural values;  
the regime of property, of real rights and of the civil and commercial obligations;  
the right to work, the syndical right and of social institutions;  
the alienation and the management of the domain of the State;  
the penitentiary regime;  
insurance and saving;  
the economic regime;  
the organization of production;  
the regimes of transport and of communications;  
the free administration of the territorial collectivities, their competences and their resources;  
the provisions of this article may be made precise and completed by an organic law.

## Article 85

The matters other than those which are of the domain of the law have a regulatory character.

## Article 86

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

These ordinances are taken in the Council of Ministers after the opinion of the Constitutional Court. They enter into force on their publication, but become lapsed if the bill of law of ratification is not deposited with the National Assembly before the date established by the enabling law.

At the expiration of the time period defined in the enabling law, these ordinances may only be modified by the law, in that which concerns their provisions which arise in the legislative domain.

## Article 87

The proposals and the bills of law are deposited with the bureau of the National Assembly which sends them for examination to specialized commissions of which the composition and the attributions are established by the internal regulations of the National Assembly.

## Article 88

The proposals of laws are, at least eight (8) days before deliberation and vote, notified for information to the Government.

## Article 89

The bills of law are deliberated in the Council of Ministers.

## Article 90

The deputies and the Government have the right of amendment.

The proposals and amendments formulated by the deputies are not receivable when their adoption would have as a consequence, either a diminution of public resources, or the creation or the increase of a public expense, unless these proposals or amendments should be accompanied by proposals of compensatory receipts.

## Article 91

The National Assembly votes the bills of the law of finance within the conditions provided for by an organic law.

The provisions of the bill may be brought into force by ordinance if the Assembly does not decide within a time period of forty-five (45) days following the deposit of the bill and if the budgetary year is coming to [its] expiration. In this case, the Government demands the convocation of an extraordinary session for the ratification.

If the bill of the law of finance has not been deposited in a timely fashion to be voted and promulgated before the debut of the financial year, the Prime Minister demands of urgency, of the Assembly, the authorization to continue the budget of the previous year by provisional twelfths.

## Article 92

The proposals or bills of organic laws are submitted to the deliberation and to the vote of the National Assembly at the expiration of a time period of fifteen (15) days after their deposit.

The organic laws may only be promulgated after the 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 [or] the state of urgency is declared by the President of the Republic in [the] Council of Ministers.

The National Assembly then meets of plain right, if it is not in session.

The extension, beyond fifteen days, of the state of siege or of urgency may only be authorized by the National Assembly.

The National Assembly may not be dissolved during the duration of the state of siege or the state of urgency.

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

## Article 95

The meetings of the National Assembly and of the Senate are public. The complete record of the debates is published in the Journal Officiel [Official Gazette].

The National Assembly can meet in closed sitting at the demand of the Prime Minister or at the demand of one-fifth (1/5) of the deputies.

## Article 96

The members of the Government have access to the National Assembly, to the Senate and to their commissions.

They may be heard on their demand.

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

## Article 97

The Prime Minister, after deliberation of the Council of Ministers, may engage before the National Assembly the responsibility of the Government on its program or on a declaration of general policy.

The National Assembly, after debate, emits a vote. Confidence may only be refused to the Government with the majority of two-thirds (2/3) of the deputies composing the National Assembly.

When confidence is refused, the Prime Minister must remit to the President of the Republic the resignation of the Government.

## Article 98

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

Such a motion, to be receivable, must be signed by one-third (1/3) at least of the deputies composing the National Assembly. The vote may only intervene five (05) days after the deposit of the motion.

The National Assembly may only pronounce the censure of the Government with the majority of two-thirds (2/3) of its members.

If the motion of censure is adopted, the Prime Minister remits the resignation of his Government.

The President of the Republic appoints a new Prime Minister.

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

## TITLE VI

# Of the CONSTITUTIONAL COURT

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### Article 99

The Constitutional Court is the highest jurisdiction of the State in constitutional matters. It is [the] judge the constitutionality of the law and it guarantees the fundamental rights of the human person and of the public freedoms. It is the regulatory organ of the functioning of the institutions and of the activity of the public powers.

### Article 100

The Constitutional Court is composed of nine (09) members appointed for seven (7) years renewable.

Three (3) are appointed by the President of the Republic of which one (1) on the basis of their juridical competence.

Three (3) are elected by the National Assembly with the majority of two-thirds (2/3) of its members. They must be chosen [from] outside of the deputies. One among them must be designated on the basis of their juridical competence.

Three (3) are elected by the Senate with the majority of two-thirds (2/3) of its members. They must be chosen [from] outside of the senators. One among them must be designated on the basis of their juridical competence.

### Article 101

The President of the Constitutional Court is appointed by the President of the Republic from among the members of the Court for a time period of seven (7) years. He has preponderant vote in case of a tie.

### Article 102

The members of the Constitutional Court, during the duration of their mandates, may not be prosecuted or arrested without the authorization of the Constitutional Court except in case of flagrante delicto. In this case, the President of the Constitutional Court must be referred to [the matter] immediately and at the latest within forty-eight hours.

### Article 103

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

An organic law determines the organization and the functioning of the Constitutional Court, the procedure to be followed before it, notably the time periods for referral [of matters] to it, as well as the immunities and the disciplinary regime of its members.

## Article 104

The Constitutional Court is the jurisdiction given the charge of seeing to respect for the provisions of the Constitution.

The Constitutional Court judges the regularity of the referendum consultations, [and] of the presidential, legislative and senatorial elections. It decides on the challenges to these consultations and elections.

It is the judge of the constitutionality of the laws.

The laws may, before their promulgation, be deferred 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.

To the same ends, the organic laws, before their promulgation, and the internal regulations of the National Assembly and of the Senate, those of the High Authority of Audiovisual and of Communications [Haute Autorité de l'Audiovisuel et de la Communication] and of the Economic and Social Council, before their application, must be submitted to it.

In the course of a judicial instance, any physical or moral person may, "in limine litis", before the courts and tribunals, raise the exception [pleadings] of the unconstitutionality of a law. In this case, the jurisdiction suspends its judgment and refers [the matter] to the Constitutional Court.

The Constitutional Court must decide within a time period of one month[;] this time period may be reduced to eight (8) days in case of urgency.

A text declared unconstitutional may not be promulgated. If it has already been implemented, it must be withdrawn by juridical ordinance.

## Article 105

The Constitutional Court emits opinions on the ordinances taken by virtue of Articles 69 and 86 of this Constitution.

## Article 106

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

They impose themselves on the public powers and on all the civil, military and jurisdictional authorities.

## TITLE VII

# Of the COURT OF ACCOUNTS

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### Article 107

The Court of Accounts judges the accounts of the public accountants.

It assures the verification of accounts and of the management of the public establishments and of the public enterprises.

It assists the Parliament and the Government in the control of the execution of the laws of finance.

It proceeds to all studies of public finance and of accounting that are demanded of it by the Government, the National Assembly or the Senate.

The Court of Accounts establishes an annual report addressed to the President of the Republic, to the Government and to the National Assembly and in which it determines, if there have arisen infractions committed, and the responsibilities incurred.

### Article 108

The Court of Accounts is composed of:

- the First President  
the presidents of [the] chamber  
the conseillers-maîtres [master-councilors]  
the conseillers référendaires [Referred Councilors]  
and of auditors.

The public ministry before the Court of Accounts is held by the procurator general and the general attorneys.

The number of offices of these different grades is established by the law.

The first president, the procurator general, the general attorneys, the presidents of the chamber and the conseillers-maîtres are appointed by decree of the President of the Republic taken in the Council of Ministers.

The conseillers référendaires and the auditors are appointed by the President of the Republic on proposal of the Prime Minister after the opinion of the Minister of Finance and [the] favorable opinion of the National Assembly.

Only the jurists of high level, the inspectors of finance, of the Treasury and of taxes, the economist-managers and the expert accountants having experience of fifteen (15) years at least, may be elected or appointed to the Court of Accounts.

### Article 109

The President of the Court of Accounts is elected by his peers for a time period of three (3) years renewable.

### Article 110

The members of the Court of Accounts have the quality of magistrates. They are irremovable during the duration of their mandate.



## Article 111

The functions of member of the Court of Accounts are incompatible with the quality of member of the Government, the exercise of any elective mandate, of any public, civil or military office, of any other professional activity as well as of any function of national representation.

An organic law determines the organization and the functioning of the Court of Accounts.

## TITLE VIII

# Of the JUDICIAL POWER

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### SUB TITLE I Of the GENERAL PROVISIONS

#### *Article 112*

Justice is rendered on the territory of the Republic in the name of the Togolese people.

#### *Article 113*

The Judicial Power is independent of the Legislative Power and of the Executive Power.

The judges are only subject in the exercise of their functions to the authority of the law.

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

#### *Article 114*

The presiding magistrates are irremovable.

#### *Article 115*

The President of the Republic is the guarantor of the independence of the magistrature.

He is assisted to this effect by the Superior Council of the Magistrature.

#### *Article 116*

The Superior Council of the Magistrature is composed of nine (9) members:

- Three magistrates of the Supreme Court;  
Four magistrates of the Courts of Appeal and of the Tribunals;  
one deputy elected by the National Assembly by ballot;  
one noted person who does not belong either to the National Assembly, or to the Government or to the magistrature, chosen by the President of the Republic on the basis of their competence.

It is presided over by the President of the Supreme Court.

The magistrates members of the said Council, with the exception of the President of the Supreme Court, member of right, are elected by their peers by secret ballot

The members of the Superior Council of the Magistrature are appointed for mandate of four (4) years renewable one sole time.

#### *Article 117*

The Superior Council of the Magistrature decides as a council of discipline of the magistrates.

The sanctions applicable as well as the procedure are established by an organic law concerning the status of the magistrature.

The organization and the functioning of the Superior Council of the Magistrature are established by an organic law.

**Article 118**

The recruitment of each magistrate is made on proposal of the Guardian of the Seals, Minister of Justice, after opinion of the Superior Council of the Magistrature.

The appointment of the presiding magistrates is made by decree taken in the Council of Ministers on proposal of the Superior Council of the Magistrature.

The appointment of the prosecuting magistrates is made by decree taken in the Council of Ministers on proposal of the Keeper of the Seals, Minister of Justice, after opinion of the Superior Council of the Magistrature.

The magistrates in office may not fulfill other public offices, or exercise lucrative private activities outside of those cases provided for by the law, or conduct political activities.

An organic law establishes the status of the magistrates and their remuneration in accordance with the requirements of independence and of efficacy.

**Article 119**

The principles of jurisdictional unity and of distinction between disputes are at the basis of the organization and of the functioning of the administrative and judicial jurisdictions.

The law organizes the military jurisdiction within respect for the principles of the Constitution.

Jurisdictions of exception are prohibited.

**SUB TITLE II Of the SUPREME COURT****Article 120**

The Supreme Court is the highest jurisdiction of the State in judicial and administrative matters.

**Article 121**

The President of the Supreme Court is necessarily a professional magistrate. He is appointed by decree of the President of the Republic in the Council of Ministers on proposal of the Superior Council of the Magistrature.

Before entry into office, he swears before the bureau of the National Assembly in these terms:

"I swear to well and faithfully fulfill my function, to exercise it in all impartiality, with respect for the Constitution, to guard the secrecy of the deliberations and of the votes, to not take any public position and to not give any consultation of private nature on the questions arising from the competence of the Court, and to conduct myself in everything as a dignified and loyal magistrate."

**Article 122**

The magistrates of the Supreme Court may only be prosecuted for crimes and offenses committed in the exercise or on the occasion or outside of their functions before the High Court of Justice.

Except in case of a flagrante delicto, no magistrate of the Supreme Court may be prosecuted or judged without the prior authorization of the Superior Council of the Magistrature.

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

**Article 123**

The Supreme Court is composed of two chambers:

- the judicial chamber  
the administrative chamber.

Each of these chambers constitutes one autonomous jurisdiction within the Supreme Court and is composed of a President of the Chamber and of Councilors.

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

The public ministry before each chamber is assured by the general prosecution of the Supreme Court composed of the procurator general and the general attorneys.

**Article 124**

The judicial chamber of the Supreme Court has competence to take cognizance:

- of the pourvois [petitions] in cassation formed against the decisions rendered in last resort by the civil, commercial, social and criminal jurisdictions.  
of the prises à partie [proceedings against a judge] against the magistrates of the Court of Appeal according to the conditions determined by the Code of Civil Procedure.  
of the criminal prosecutions against the magistrates of the Court of Appeal according to the conditions determined by the Code of Criminal Procedure.  
of the demands for révision [review] and of judicial regulation.

**Article 125**

The administrative chamber of the Supreme Court has competence to take cognizance:

- of the recourses formed against the decisions rendered in contentious-administrative matters.  
of the recourses for abuse of power formed against administrative acts;  
of the challenges to local elections;  
of recourses in cassation against the decisions of the organs deciding in disciplinary matters.

**SUB TITLE III Of the HIGH COURT OF JUSTICE****Article 126**

The High Court of Justice is composed of the president and of the presidents of the chambers of the Supreme Court and of four deputies elected by the National Assembly.

The High Court of Justice elects its president from within it.

An organic law establishes the regulations of its functioning as well as the procedure to be followed before it.

**Article 127**

The High Court of Justice is the sole jurisdiction competent to take cognizance of the infractions committed by the President of the Republic.

The political responsibility of the President of the Republic is only engaged 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 security of the State.

**Article 128**

The High Court of Justice takes cognizance of the crimes and offenses committed by the 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 the penalties which result from them[,] of the criminal laws in force at the moment when the acts were committed.

The decision to prosecute as well as to impeach of the President of the Republic and of the members of the Government is voted with the majority of four-fifths (4/5) of the members of each of the two assemblies composing the Parliament, according to the procedure provided for by an organic law.

In case of condemnation, they are relieved of their offices [charges].

## **TITLE IX**

# **Of the HIGH AUTHORITY OF AUDIOVISUAL and of COMMUNICATION**

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### **Article 130**

The High Authority of Audiovisual and of Communication has for [its] mission to guarantee and to assure the freedom and the protection of the press and of the other means of mass communication.

It sees to respect for ethics in matters of information, of communication and of equitable access of the political parties and of the associations to the official means of information and of communication.

The High Authority of Audiovisual and of Communication is competent to give authorization for the installation of new private television channels and radio.

### **Article 131**

The High Authority of Audiovisual and of Communication elects from within it its president and the members of its bureau.

The composition, the organization and the functioning of the High Authority of Audiovisual and of Communication is established by an organic law.

## TITLE X

# Of the ECONOMIC AND SOCIAL COUNCIL

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### Article 132

The Economic and Social Council is given the charge to give its opinion on all the questions brought to its examination by the President of the Republic, the Government, the National Assembly, the Senate or any other public institution.

The Economic and Social Council is consulted, for [its] opinion, on any project of plan or of economic and social program as well as on any bill of [a] text of fiscal, economic and social character.

It may equally proceed to analyze any problem of economic and social development. It submits its conclusions to the President of the Republic, to the Government, to the National Assembly and to the Senate.

It monitors the execution of the decisions of the Government relative to economic and social organization.

### Article 133

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

### Article 134

The Economic and Social Council elects from within it its president and the members of its bureau.

### Article 135

The Economic and Social Council has a section in each economic region of the country.

### Article 136

The composition, the organization and the functioning of the Economic and Social Council as well as of its sections are established by an organic law.

## **TITLE XI**

# **Of the INTERNATIONAL TREATIES AND AGREEMENTS**

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### **Article 137**

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

### **Article 138**

The peace treaties, the commercial treaties, the treaties relative to the international organizations, those that engage the finances of the State, those that modify the provisions of a legislative nature, those which are relative to the status of persons and to the Rights of Man, [and] those that involve cession, exchange or addition of territory, may only be ratified by virtue of a law.

They may only take effect after having been ratified and published.

No cession, no exchange or addition of territory is valid without the consent of the populations interested.

### **Article 139**

When the Constitutional Court, referred to [the matter] by the President of the Republic, by the Prime Minister or by the President of the National Assembly, has declared that an international commitment contains a clause contrary to the Constitution, the authorization to ratify it or to approve it may only intervene after the revision of the Constitution.

### **Article 140**

The treaties or agreements regularly ratified or approved have, on their publication, an authority superior to the laws, under reserve, for each agreement or treaty, of its application by the other party.



## **TITLE XII**

# **Of the TERRITORIAL COLLECTIVITIES and of the TRADITIONAL CHIEFDOMS**

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### **Article 141**

The Togolese Republic is organized in territorial collectivities on the basis of the principle of decentralization within respect for the national unity.

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

Any other territorial collectivity is created by the law.

The territorial collectivities administer themselves freely by councils elected by universal suffrage, within the conditions provided for by the law.

### **Article 142**

The State sees to the harmonious development of all the territorial collectivities on the basis of national solidarity, of regional potentials and of inter-regional equilibrium.

### **Article 143**

The Togolese State recognizes the traditional chiefdom, guardian of use and customs.

The designation and the enthronement of the traditional chief obeys the use and customs of the locality.

## TITLE XIII

# Of REVISION

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### Article 144

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

The bill or the proposal of revision is considered as adopted if it is voted with the majority of four-fifths (4/5) of the deputies composing the National Assembly.

In default this majority, the bill or proposal of revision adopted with the majority of two-thirds (2/3) of the deputies composing the National Assembly, is submitted to referendum.

The President of the Republic may submit to referendum any bill of constitutional law.

No procedure of revision may be engaged or pursued in a period of interim or of vacancy or when the integrity of the territory is infringed.

The Republican form and the secularity of the State may not be the object of a revision.

## TITLE XIV

# SPECIAL PROVISIONS

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### Article 145

The President of the Republic, the Prime Minister, the members of the Government, the President and the members of the bureau of the National Assembly and of the Senate and the Directors of the central administrations and of the public enterprises must make before the Supreme Court a declaration of their assets and credits at the debut and at the end of their mandate or of the office.

A law determines the conditions for the implementation of this provision.

### Article 146

The source of all legitimacy follows from this Constitution.

### Article 147

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

### Article 148

Any attempt to overthrow the constitutional regime by the personnel of the Armed Forces or [Forces] of Public Security, by any individual or group of individuals, is considered as an imprescriptible crime against the Nation and sanctioned in accordance with the laws of the Republic.

### Article 149

Outside of for the defense of the territory and of the works 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 enabled to protect civil objectives, and to assure missions of the police, to the extent that their mission of defense of the territorial integrity requires it. In this case, the Armed Forces cooperate with the authorities of [the] police.

In case of armed rebellion and if the Forces of Police and of Security cannot, by themselves, maintain public order, the Government can, to contain the danger menacing the existence of the Republic or the democratic constitutional order, engage the Armed Forces to assist the Forces of Police and of Security in the protection of civil objectives and the struggle against rebels.

In any state of cause, the Government must end the engagement of the Armed Forces once the National Assembly requires it.

### Article 150

In case of coup d'état, or any coup of force whatever, any member of the government or of the National Assembly has the right and the duty to call on all means to reestablish the constitutional legitimacy, and including the recourse to existing agreements of military or of defense cooperation.

In these circumstances, for any Togolese, to disobey and to organize themselves to resist the illegitimate authority constitutes the most sacred of the rights and the most imperative of the duties.

Any overthrow of the constitutional regime is considered as an imprescriptible crime against the Nation and sanctioned in accordance with the laws of the Republic.

## Article 151

This Constitution must be promulgated within the eight (8) days following its adoption by referendum.

## **TITLE XV**

# **Of the NATIONAL COMMISSION OF THE RIGHTS OF MAN and of the MEDIATOR OF THE REPUBLIC**

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### **SUB TITLE I Of THE NATIONAL COMMISSION OF THE RIGHTS OF MAN**

#### ***Article 152***

A National Commission of the Rights of Man is created. It is independent. It is only subject to the Constitution and to the law.

The composition, the organization and the functioning of the National Commission of the Rights of Man are established by an organic law.

#### ***Article 153***

No member of the Government or of the Parliament, [and] no other person may interfere with the exercise of its functions[,] and all other organs of the State give their assistance to it[,] of which it should have need to preserve its independence, its dignity and its efficacy.

### **SUB TITLE II Of the MEDIATOR OF THE REPUBLIC**

#### ***Article 154***

A Mediator of the Republic[,] given the charge of governing the non-jurisdictional conflicts between the citizens and the administration[,] is instituted. The Mediator of the Republic is an independent administrative authority appointed by decree taken in the Council of Ministers for a mandate of three (03) years renewable.

The composition, the organization and the functioning of the services of the Mediator of the Republic are established by an organic law.

## TITLE XVI

# Of the TRANSITORY PROVISIONS

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### Article 155

The competences devolved to the Senate for the designation of the members of the Constitutional Court are exercised by the National Assembly until the installation of the Senate. The members so designated exercise their mandate of seven (07) years.

### Article 156

The current members of the Constitutional Court remain in [their] functions until the installation of the new members.

### Article 157

Until the installation of the Senate, the National Assembly exercises solely the legislative power devolved to the Parliament.

### Article 158

The legislation in force in Togo until the installation of the new institutions remains applicable, save for intervention of new texts, and so long as they contain nothing that is contrary to this Constitution.

## **TITLE XVII**

# **Of the FINAL PROVISIONS**

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### **Article 159**

This Constitution will be executed as fundamental law of the Togolese Republic.