

DJIBOUTI CONSTITUTION

Approved on 4 September 1992

TITLE I: THE STATE AND SOVEREIGNTY

Article 1

The state of Djibouti shall be a democratic sovereign Republic, one and indivisible. It shall ensure the equality of all citizens before the law, without distinction as to origin, race, sex or religion. It shall respect all beliefs. ... Its principle shall be: "Government of the people, by the people and for the people". Its official languages shall be Arabic and French.

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Article 3

The Republic of Djibouti shall comprise all persons whom it recognises as members and who accept its duties, without distinction of language, race, sex or religion. National sovereignty shall belong to the Djiboutian people, who shall exercise this sovereignty through its representatives and by way of referendum. No fraction of the people nor any individual may assume the exercise thereof. No one may be arbitrarily deprived of the status of member of the national community.

Article 4

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

Article 5

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

Article 6

Political parties shall be instrumental in the expression of the suffrage. They shall be formed and carry on their activities freely in respect for the Constitution and the principles of national sovereignty and democracy. They shall be prohibited from identifying themselves by race, ethnic group, sex, religion, sect, language or region. The formalities with respect to registration of political parties and the exercise and cessation of their activities shall be determined by law.

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Article 8

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

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TITLE II: RIGHTS AND DUTIES OF THE PERSON

Article 10

The person is sacred. The state shall have the obligation to respect and protect it. All human beings shall be equal before the law. Every individual shall have the right to life, liberty, security and the integrity of his person. No one may be prosecuted, arrested, accused or convicted other than by virtue of a law promulgated prior to the actions of which he is

accused. All accused persons shall be deemed innocent until proved guilty by the competent jurisdiction. The right to defence, including the right to legal assistance of one's own choosing, shall be guaranteed at all stages of proceedings. Anyone who is deprived of his liberty shall have the right to be examined by a doctor of his own choosing. No one may be detained in a penal establishment other than by order of a magistrate member of the judiciary.

Article 11

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

Article 12

The right to property is guaranteed by the present Constitution. It may not be impaired except in the case of public necessity legally established and subject to the prior payment of just compensation. The home shall be inviolable. It may be subjected to domiciliary visit or house search only in the manner and under the conditions prescribed by law. Measures impairing or restricting the inviolability of the home may be taken only to provide against a common danger or to protect persons in danger of death.

Article 13

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

Article 14

All citizens of the Republic shall have the right freely to move and settle anywhere within the territory of the Republic. This right may not be limited except by law. No preventive measure shall be taken against any person except in the cases provided by law.

Article 15

Everyone shall have the right freely to express and disseminate his opinions by word, pen, or image. These rights shall be subject to the provisions of the law as well as to respect for the honour of other persons. All citizens shall have the right freely to constitute associations and trade unions, subject to compliance with the formalities required by the laws and regulations. The right to strike shall be recognised. It shall be exercised within the limits of the laws which are applicable thereto. In no case may the freedom to work be impaired.

Article 16

No one shall be subjected to torture or to inhuman, cruel, degrading or humiliating treatment or punishment. Any individual, agent of the state or public authority guilty of such acts, whether independently or on instructions, shall be punished in accordance with the law.

Article 17

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

Article 18

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

Article 19

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

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TITLE III: THE PRESIDENT OF THE REPUBLIC

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Article 35

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

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Article 37

The President of the Republic shall negotiate and approve treaties and international conventions, which shall be submitted for ratification by the National Assembly. Treaties or agreements duly ratified shall, upon their publication, have an authority superior to that of laws subject, for each agreement or treaty, to its application by the other party and to its conformity with the relevant provisions of the law of treaties. Without prejudice to the previous paragraph, the ratification or approval of an international commitment containing a clause contrary to the relevant provisions of the Constitution may take place only after the amendment of the Constitution.

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Article 40

When the institutions of the Republic, the independence of the nation, the integrity of its territory or the fulfilment of its international commitments are threatened in a grave and immediate manner and when the regular functioning of the governmental authorities is interrupted, the President of the Republic may, after consulting the President of the National Assembly and the President of the Constitutional Council and after informing the nation in a message, take any measure, except for a constitutional amendment, which tends to re-establish the regular functioning of the governmental authorities and to ensure the safeguarding of the nation. The National Assembly shall convene as of right. The Assembly shall be responsible for ratification of any measures of a legislative nature put into effect by the President within fifteen days of their promulgation. These measures shall become null and void if a government bill for ratification is not filled with the Secretariat of the National Assembly within the aforementioned period of time. Refusal of ratification by the National Assembly shall not be retroactive in effect.

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TITLE VI: RELATIONS BETWEEN THE LEGISLATIVE POWER AND THE EXECUTIVE POWER

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Article 62

... Martial law and states of emergency shall be decreed in a meeting of the Council of Ministers. Prolongation of martial law or a state of emergency beyond fifteen days may not be authorised without the prior consent of the National Assembly.

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TITLE VII: JUDICIAL POWER

Article 71

The judicial power shall be independent of the legislative power and the executive power. It shall be exercised by the Supreme Court and the other courts and tribunals. The judicial power shall ensure respect for the rights and liberties specified in the present Constitution.

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Article 74

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

TITLE VIII: THE CONSTITUTIONAL COUNCIL**Article 75**

The Constitutional Council shall ensure compliance with the principles of the Constitution. It shall monitor the constitutionality of the laws. It shall guarantee the fundamental rights of the person and the public liberties. It shall act as the regulatory body for the functioning of the institutions and activity of the governmental authorities.

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Article 78

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

Article 79

For the same purpose, laws may be referred to the Constitutional Council before their promulgation by the President of the Republic, the President of the National Assembly or ten deputies. ... A provision declared unconstitutional may not be promulgated or implemented.

Article 80

Legislative provisions relating to the fundamental rights of any person as recognised under the Constitution may be referred to the Constitutional Council, by way of exception, in connection with proceedings that are under way before a court. The plea of unconstitutionality may be entered by any plaintiff before any jurisdiction. The jurisdiction in question shall then suspend its proceedings and transmit the case to the Supreme Court. The Supreme Court shall have a time limit of one month within which to reject the plea if it is without serious foundation or, if the converse is true, refer the case to the Constitutional Council, which shall make its rulings within the time limit of one month. A provision found unconstitutional on the basis of this article shall cease to be applicable and may not longer be applied in proceedings.

Article 81

Decisions of the Constitutional Council shall possess the authority of *res judicata*. They may not be appealed. They must be recognised by the governmental authorities, by all administrative and juridical authorities and by all physical and moral persons.

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TITLE XI: AMENDMENT OF THE CONSTITUTION**Article 87**

The President of the Republic and the deputies alike shall have the right to initiate the amendment of the Constitution. For it to be discussed, any parliamentary bill for amendment must be signed by at least one-third of the members of the National Assembly. The government or parliamentary bill for amendment must receive the votes of the majority of members of the National Assembly, and shall become definitive only after approval by referendum, by simple majority of the votes cast. Nevertheless, the referendum procedure

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

Article 88

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

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