

CONSTITUTION OF THE REPUBLIC OF EQUATORIAL GUINEA

PREAMBLE

We the people of Equatorial Guinea, Conscious of our responsibility before God and history;

Driven by the will to safeguard our independence, organize and consolidate our national unity;

Desirous of upholding the authoritic African spirit of family and community set-up adapted to the new social and legal structures of the modern world;

Conscious of the fact that the charismatic authority of the traditional family is the foundation of the Equato-Guinean Society;

Firmly support the principles of social justice and solemnly reaffirm our attachment to the mental freedoms enshrined in the universal Declaration of Human Rights of 1948;

By virtue of these principles and the free determination of the people;

Adopt the following constitution of the Republic of Equatorial Guinea.

PART ONE

FUNDAMENTAL PRINCIPLES OF THE STATE

Item 1: Equatorial Guinea shall be a sovereign, independent, republican, unitary, social and democratic state, its supreme values shall be unity, peace, justice, freedom and equality.

Multipartism shall be recognized.

Its official appellation shall be: **THE REPUBLIC of EQUATORIAL GUINEA.**

Item 2: National sovereignty shall be vested in the people who shall exercise same through election by universal suffrage. Likewise, the duties of the authorities responsible for the management of the state shall be determined by the supreme law and others. No section of the people or any individual shall arrogate to itself or to himself the exercise thereof.

Item 3: The territory of Equatorial Guinea shall comprise: The main land zone known as Rio Muni; the Island of Bioko, Annobon, Corisco, Elobey Grande and Elobey Chico; the adjacent Islets; the fluvial waters; the maritime zone and the continental platform which shall be determined by the law and air space covered.

The state shall fully exercise its sovereignty and shall be reserved the exclusive

rights to explore and exploit all mineral resources and hydrocarbons.

The national territory shall be unalienable and invincible.

The state shall (for administrative and economic purposes) be divided into regions, provinces, districts and municipalities.

The law shall delimit and denominate the regions, provinces, districts and municipalities. It shall equally determine the space to be occupied by each zone.

Item 4: The official language of the Republic of Equatorial Guinea shall be Spanish; aboriginal languages shall be recognized as an integral part of its national culture.

Its flag shall be three equal horizontal stripes of green, white and red charged with a blue triangle at the extremity close to the flagpole. Its shield shall be engraved in the center of the flag.

Its shield shall establish the law.

Its motto shall be "**UNITY-PEACE-JUSTICE.**"

Its national anthem shall be the hymn dedicated to the father land on October 12, 1968, day of its proclamation of independence.

Item 5: The principles that shall govern the Equato-Guinean society shall be:

1. The respect of individual, his dignity, freedom and other fundamental rights;
2. The protection of the family, the basis of the Equato-Guinean society;
3. The recognition of all rights and gender equality;
4. The protection of labor;
5. The promotion of the economic development of the nation.
6. The promotion of the social and cultural development of all Equato-Guineans.

Item 6: The state shall encourage and promote culture, the arts and scientific and technological research, and shall ensure the conservation of nature, the cultural heritage and the artistic and historical riches of its nations.

Item 7: The state shall define the sovereignty of its nation, strengthen its unity and ensure the respect of fundamental rights and the promotion of the economic, social and cultural progress of its citizens.

Item 8: The state shall endeavor to follow the principles of international law and shall reaffirm its attachment to the rights and obligations enshrined in the characters of international organizations and bodies of which it shall be member.

Item 9: Political parties shall be integral political organizations of persons who shall associate freely to participate in the political orientation of the state. They shall represent multipartism and democracy, and shall thus express popular will as the basis of any political participation.

Its political parties shall not be allowed to have appellations similar to those that

existed before October 12, 1968; their ambitions and perspectives shall have to be nationalistic and shall therefore, not be based on tribe, ethnic inclinations, religion, gender, district, municipality, social condition or profession. The law shall regulate their creations and functioning.

Item 10: The right to unemployment shall be recognized and exercised as stipulated by the law.

Item 11: Citizens, public authorities, political parties, trade be subject to the fundamental laws and legal provisions.

Item 12: The law shall determine the legal system that shall apply to the right to nationality, citizenship and the condition of foreigners.

Item 13: Every citizen shall enjoy the following rights and freedoms:

a) - The respect of his person, life, integrity and physical and moral dignity. Capital punishment shall only be applied for crimes condemned by the law;

b) - Freedom of expression;

c) - Equality before the law. Women, irrespective of their civil status, shall have the same rights and opportunities as her male counterpart at the political, economic, social and cultural levels, and at all levels of life; public, private or family;

d) - Freedom of movement and residence;

e) - Honour and good reputation;

f) - Freedom of religion and worship;

g) - The inviolability of the home and the privacy of all correspondence.

h) - The submission of petitions to the state.

i) - The right to speak;

j) - The right to a fair hearing before the courts;

k) - Freedom of association, of assembly and the right to strike;

m) - The deprivation of liberty except in the cases and according to the manner determined by law;

n) - The right to hear the charges levied on him;

o) - The right to presume innocence until found guilty during hearing;

- p) - No person shall arrogate to himself the right to do justice;
- q) - Shall not be judged or condemned twice for the same offence;
- r) - Shall not be condemned without proof, nor deprived of the right to defense;
- s) - Shall not be punished for an act or omission.

Item 14: The fundamental rights recognized in this chapter shall not exclude those guaranteed by the fundamental law, nor the others, which enunciate human dignity, the principle of sovereignty of the people or the social and democratic state of law and the republican form of government.

Item 15: All acts of partiality or discrimination committed on the basis of tribe, gender, religion, and corruption and other or same shall be punishable by law.

Item 16: All Equato-Guineans shall have the obligation to honor the father land and defend its sovereignty, its territorial integrity and national unity, factors which contribute to the peace, national security and traditional Equato-Guinean values and protect national interests.

Military services shall be obligatory for all and shall be regulated by law.

Item 17: All Equato-Guineans shall have the obligation to live peaceful, respect the rights and obligations and contribute to the building of a just and fraternal society.

Item 18: All Equato-Guineans shall respect the state, its national anthem, its Head of State, its government and the institutions legally instituted.

Item 19: Every citizen shall pay taxes according to his revenues.

The expenses and revenues of the state and the investment programs shall be registered in each financial year within the annual budget elaborated in accordance with the legislation in force.

Item 20: Every citizen shall have the obligation to respect and defend the fundamental law.

Item 21: The state shall ensure the protection of the family as the foundation of the society and shall secure the moral, cultural and economic conditions favorable to the achievement of objectives.

It shall equally protect every matrimonial class.

The traditional family heritage shall be unalienable as determined by the law.

Item 22: The state shall ensure the protection of every person from birth, and foster his normal development and ensure his security for his moral, psychological

and physical integration as well as his family life.

It shall encourage and promote primary health care as the corner stone of the development of this sector.

Item 23: (Constitutional law No. 1/1995, de fecha 17 de Enero).

Education shall be primordial to the state. Every person shall have the right to primary education people shall have the right to primary education which is obligatory and free;

Free education shall be instituted by law;

The state shall guarantee to every person, private body or religious institution the right to found schools provided he or it subjects oriented toward the official pedagogical plan;

Official education shall freely allow the institution of religious education, which is protected by the constitution.

Education that shall be officially recognized may not orientate a programme or propagate ideological or partisan tendencies.

Item 24: The state shall protect responsible paternity and ensure appropriate education to promote the family.

Item 25: Work shall be a right and social obligation. The state shall recognize its role in improving on the well-being and development of its national resources conditions to eradicate poverty, misery and ensure the equal occupation of its national territory and shield its citizens from need.

The law shall define the conditions under which this right shall be exercised.

Item 26: Its economic system shall be based on the principle of free exchange and the freedom of enterprise.

The law shall regulate the exercise of this freedom that should conform with the exigencies of economic and social development.

The state shall protect, guarantee and control foreign investment which contributes to the development of its nation.

Item 27: Its economy shall function under main sectors:

- a. The public sector comprising state-owned companies and mainly constituted of the exploitation of resources and services enumerated under article 28 of the fundamental law as well as other economic activities;
- b. The mix economic sector which integrates public and private capital for enterprises;
- c. The cooperative sector owned and managed by a community of persons working in these cooperatives. The state shall dictate the laws regulating and

- developing this sector;
- d. The private sector, which integrates companies owned by one or more physical persons or corporate bodies with private rights and, more generally, companies that do not fall under the sectors mentioned above.

Item 28: The resources and services reserved to the public sector shall be:

- a) - Mines and hydrocarbons;
- b) - Services in charge of distributing water and electricity;
- c) - Post, telecommunications and transport services;
- d) - Radio and television;
- e) - And others determined by the law.

The state may delegate, concede or associate with a private body to develop any activity or service mentioned above in conformity with the law.

Item 29: The state shall recognize public and private ownership.

The right of ownership shall be guaranteed and protected as stipulated by the law in force.

Ownership shall be inviolate, no person shall be deprived of his property and rights except in the case of public utility and upon compensation.

The state shall guarantee to farmers ownership of their lands.

The law shall determine the legality of public property.

PART TWO

CHAPTER I

POWERS AND ORGANS OF THE STATE

Item 30: State power shall be exercised by:

-The president of the Republic; The Ministerial Council; The House of Commons; The Judiciary; And other organs instituted in compliance with the constitution.

CHAPTER II

THE PRESIDENT OF THE REPUBLIC

Item 31: (Constitutional law No. 1/1995 of 17 January).

The President of the Republic shall be the Head of State; he shall be the symbol of

national unity and shall represent the Nation. He shall be elected by a relative majority of the votes cast through direct, equal and secret universal suffrage.

The law shall determine the conditions of the electoral process.

Item 32: (Constitutional law No.1/1995 of 17 January)

The person of the Head of state shall be inviolate and the law shall define his privileges and immunity during his term of office.

Item 33: (Constitutional law No. 1/1995 of 17 January)

The following requirements shall have to be fulfilled to become president of the republic:

- a. Be an Equato-Guinean by birth;
- b. Enjoy civic rights;
- c. Live in the country since 5 years;
- d. Be capable of interpreting the constitution;
- e. Be elected in accordance with the constitution and other laws;
- f. Have between the ages of 40 and 75 years;
- g. Not have another nationality.

Item 34: The president of the Republic shall be elected for a term of office of 7 (seven) years renewable.

Presidential elections shall be announced on the seventh year of the term of office of the president of the Republic at a date set by decree and adopted by the Ministerial council.

The elections shall be held 40 days before the expiry of the term of office of the president of the Republic or later, but within 70 days after the announcement of the date.

Item 35: The President of the Republic shall, upon election, be sworn in 30 days after the proclamation of results, and shall take the oath of office before the August presence of members of parliament and the Supreme Court meeting in solemn session.

Where the winner of the elections belongs to a political party with a minority in the assembly, the president of the Republic appoints a new government.

Item 36: (Constitutional law No. 1/1995 of 17 January)

The president of the Republic shall determine the politics of the nation, arbitrate and model the normal functioning of all institutions of the state. His authority shall extend over the national territory.

Item 37: The president shall exercise statutory authority in the Ministerial council.

Item 38: (Constitutional law No. 1/1995 of 17 January)

The President of the Republic shall sanction and promulgate laws as provided by the constitution. He shall exercise the right to veto as provided under article 79 of the constitution.

Item 39: (Constitutional law No. 1/1995 of 17 January)

The President of the Republic shall equally exercise the following:

- a. Guarantee the strict implementation of the constitution, the functioning of state institutions and continuity of the state.
- b. Convene and preside over the Ministerial Council.
- c. Dictate in the Ministerial Council the decrees and laws as provided under article 64 (1) of the present constitution.
- d. He shall head the Armed Forces. The President of the Republic shall guarantee the security of the state beyond the frontiers.
- e. He shall declare war and conclude peace.
- f. He shall appoint the prime Minister as provided by the constitution.
f-bis) - He shall ratify the decision of Parliament on its elections and president, as well as other members of the bureau in conformity with the constitution and the by-laws of the Assembly.
- g. He shall appoint and revoke high civil and military officials and may delegate the prime minister to appoint other civil and military officials.
- h. He shall negotiate ratify international treaties and agreements in accordance with the constitution.
- i. He shall confer the decorations and honorary distinctions of the Republic.
- j. He shall exercise the right of demency.
- k. He shall convene general elections as provided by the constitution.
- l. He shall approve, in conjuration with the Ministerial Council, the national development plan.
- m. He shall have the right to dissolve the parliament as provided by the present constitution.
- n. He shall exercise the other attributions and prerogatives provided by the law.

Item 40: The president of the Republic shall be the head of the Armed Forces to ensure the territorial integrity of the nation and the maintenance of law and order

Item 41: (Constitutional law No. 1/1995 of 17 January)

Where circumstances so warrant, the president of the Republic may declare a state of siege by decree and suspend the constitution for a maximum period of three months and take exceptional measures to safeguard the nation's assets. The deadline of three months may be prolonged where the situation remains dangerous.

Item 42: (Constitutional law No. 1/1995 of 17 January)

1. The president of the Republic may, where circumstances so warrant, declare a state of emergency and inform the parliament.
2. The president shall determine the effects, territorial limits and duration of the state of emergency or the state of siege.

3. The law regulates the state of siege and its relevant competence and limit.
4. He shall not dissolve the Assembly except (17) under the conditions mentioned above.
5. He may suspend the constitution in the event of terrorist attacks or muting and sentence those involved according to the gravity of the situation.

Item 43: (Constitutional law No. 1/1995 of 17 January)

1. The President may end his functions in the event of:
 - Resignation
 - Expiry of term of office
 - Permanent physical or mental invalidity.
 - Death

2. In the event of vacancy of the Presidency, a college comprising the President of Parliament, who presides over it, the Prime Minister, the President of the Supreme Court and a member of the Constitutional Council designated by its president shall ensure the interim management of the state.
The Ministers of Defense and Security may attend these meetings as observers.

Above 45 days, the Parliament shall meet in an extraordinary session to elect a President charged with ending the term of office.

The Constitution shall not be modified in the event of vacancy.

CHAPTER THREE

THE COUNCIL OF MINISTERS

Item 44: For the exercise of the political and administrative function, the President of the Republic presides the counsel of ministers, First constituted of the Prime Minister and the other members of the government

Item 45: (Constitutional law No. 1/1995 of 17 January)

The Council of Ministers shall execute the general policy of the nation as determined by the president of the Republic, ensure the application of laws and permanently assist the president in his political and administrative duties.

The law shall determine the order of ministries, their denomination and their competences and roles.

Item 46: The management and administration of government services shall be responsibility of ministers and other competent services of Ministerial departments.

Item 47: (Constitutional law No. 1/1995 of 17 January)

In addition to its functions as determined by the Constitution, the Council of ministers shall have the following duties:

1. Direct the general policy of the Nation as defined by the president of the Republic by organizing and executing economic, cultural, scientific and social activities.
2. Propose the socio-economic development plans of the state and, where approved by the president and the parliament, organize, direct and supervise their implementation.
3. Elaborate the budgetary draft project and ensure its execution upon approval by the parliament and the president.
4. Define the monetary policy and adopt measures aimed at protecting the monetary and financial system of the state.
5. Elaborate draft projects submitted to parliament for approval.
6. Grant territorial exile.
7. Direct the administration of the state, coordinate and control the activities of the different ministries.
8. Ensure the application of laws and other general provisions which it integrates in the judicial organization of the nation.
9. Put in place necessary commissions charged with executing its attributions.

Item 48: (Constitutional law No. 1/1995 of 17 January)

1. All members of government in managing their ministries shall be jointly responsible before the law, the President and the Parliament and, personally responsible before the Prime Minister, but no individual responsibility before the law.
2. The Civil and Criminal responsibility of members of government shall be requested in accordance with the law.

Item 49: The members of government shall be:

- The Prime Minister
- The Deputy Prime Ministers
- The Minister of State
- The Ministers
- The Deputy Ministers
- The Secretaries of State.

Item 50: The Prime Minister and other members of government shall take the oath of office before the president and the constitution.

Item 51: The Ministerial Council, the plenary and the Ministers separately may attend the debates in Parliament without the right to vote. They may equally intervene.

CHAPTER FOUR

THE PRIME MINISTER

Item 52: The Prime Minister shall be member of the political party with the majority of seats in the National Assembly.

Item 53: The Prime Minister shall be the Head of Government and shall direct its actions, execute and ensure the enforcement of laws. He shall dictate the necessary instructions.

Item 54: The President of the Republic shall appoint the Prime Minister who is charged with appointing other members of government.

In the event of any disagreement, the President of the Republic shall urge the majority to designate a new Prime Minister and shall dissolve the parliament and summon new parliamentary elections.

Item 55: In his capacity of Head of Government, the Prime Minister shall, in addition to his attributions, coordinate ministerial activities and shall ensure the smooth functioning of government services. He shall ensure the implementation of government programs. He shall summon and preside over the inter-ministerial council in charge of deliberating on the proposals that shall be submitted to the Council of Ministers and proposing draft bills to parliament.

Item 56: The Prime Minister may exceptionally and by virtue of precise delegations, preside over the Ministerial Council with a pre-defined agenda.

Item 57: The Prime Minister shall end his term of office in the event of:

- a. Resignation
- b. Expiry of the term of office of the Parliament
- c. Permanent physical disability
- d. Dissolution of the Assembly
- e. Death

Item 58: (Constitutional law No. 1/1995 of 17 January)

In the event of resignation, disability or death, the President of the Republic may summon new legislative elections where the majority fails to designate a candidate within seven (7) days.

Item 59: The Prime Minister shall propose to the President of the Republic one or more Deputy Prime Minister who may substitute him in the event of a vacancy.

CHAPTER FIVE

THE NATIONAL ASSEMBLY

Item 60: Legislative powers shall be conferred to the National Assembly through universal suffrage, and the Parliament shall exercise this power as provided by the

Constitution.

Item 61: The National Assembly shall comprise 80 (eighty) members elected by direct and secret office. Elections shall be conducted in one day and within 60 days before the mandate expires.

Administrative districts shall constitute the electoral constituencies.

Seats shall be attributed to each list of candidates through a system of proportional representation.

The electoral law shall determine the number of seats for each electoral constituency, the ineligibility and incompatibility of members of parliament and shall elaborate other aspects of the electoral process.

Item 62: Members of parliament shall not necessarily respect the mandate.

Item 63: Members of Parliament shall have the right to amendment and vote. Voting shall be personal.

Item 64: The functions of the National Assembly shall be as follows:

- a. Elect the President, Deputy Presidents and bureau among members.
- b. Enact its by-laws.
- c. Approve state expenses, revenues and investment budgets.

The State through the tributary law, inspired in the principles of equality, generality and prosperity, establishes the taxes, obligations and exedents for-fiscal and the special circumstances that concur in each figure of taxes for its liquidation.

All the physical or legal persons, national or stranger, residentes in the Republic of Equatorial Guinea have the obligation of paying the taxes imposed by law.

- d. Legislate for taxation, suppress and institute taxes and other charges.
- e. Legislate for weights and measures.
- f. Determine the bases of civil and commercial rights relative to penal and labor procedures.
- g. Regulate fundamental rights and freedoms.
- h. Approve peace and trade treaties, those that affect national sovereignty and territorial integrity; those relative to a legal reserve are ratified by the President of the Republic.
- i. Authorize the President of the Republic to enact statutory orders relative to legal reserve between two sessions; these decrees shall enter into force when released. The government shall inform the Assembly on the content of this statutory order.
- j. Enlighten the members of government on the affairs under its competence, and call on them to explain the management of their affairs.
- k. Appoint an internal investigation commission to look into matters likely to comprise public interests. The commission shall have free access to all ministerial departments.

I. Carryout its duties as provided by the law.

Item 65: The President of the Republic may, after consulting the council of Ministers and the Bureau of the National Assembly, decide to summon a referendum where he deems necessary. The bill that shall be adopted therein shall be enforced and promulgated by the president of the Republic.

Item 66: The President of the Republic may, during ministerial council, order the dissolution of the Assembly and organize new elections.

Item 67: Every person, physical or corporate, Equato-Guinean or foreign, resident in Equatorial Guinea, shall pay taxes.

Item 68: No member of parliament may be detained during or after his mandate for opinions expressed in the exercise of his duties.

Item 69: The Assembly shall meet as of right the Monday following the promulgation of results for not more than 30days.

The agenda of this session shall be limited to the election of the President of the Assembly and the Bureau members, except the government introduces urgent questions.

Item 70: The National assembly shall hold 2 (two) ordinary sessions each year (March and September) for two months.

Item 71: The National Assembly shall meet in extra-ordinary session on a specific agenda and at the request of the President of the Republic of three-quarter of its members.

A session shall be held by more than half of the members, and decisions shall be adopted through vote by simple majority.

Item 72: The opening and closing of each session, ordinary or extraordinary, shall be ordered by Presidential decree in accordance with the Bureau.

Item 73: Sittings of the National Assembly shall be public

Item 74: The National Assembly may hold sittings in camera at the request of the president of the Republic or of an absolute majority of its members.

Item 75: The President of the Republic shall hold the legislative power in ministerial councils, and members of Parliament shall hold it in the Assembly.

Draft projects submitted by members shall be deposited at the Bureau as provided by is by-laws and shall be transmitted to the Government for assessment.

Item 76: In addition to matters provided by the constitution, the law shall reserve the following:

- a. Regulation of rights and obligations of the citizens.
- b. Expropriation of property for public utility.
- c. Nationality, state and capacity of persons, civil status and successions.
- d. Organization of justice, creation of new jurisdictions, the status of magistrates and of the public service.
- e. Penitentiary status, amnesty, definition of offences and the sentences that shall apply.
- f. Status of associations, political parties and trade unions.
- g. Status of the issue and printing of the currency.
- h. General administrative and financial organization.
- i. Conditions of participation of the state in the management of enterprises.
- j. Status of the public inheritance.
- k. Status of freedoms and persons, ownership, property, civil and commercial rights and obligations.
- l. Financial obligations of the state.
- m. Economic and social action plan.
- n. Fundamental principles governing education, culture, the right to work and social security.

Item 77: The general budget of state presented by the government during the second session shall be voted by the National Assembly. Where the state budget is not adopted before the current financial year expires, the president of the Republic may extend the preceding budgetary bill until adaptation of the new bill.

The Government may request a ten-day extraordinary session for new deliberations.

Where the budget is finally not adopted, the President of the Republic has the prerogative to institute the budgetary bill.

Item 78: Where the budget is not voted during the second ordinary session, the president of the Republic shall summon an extraordinary session to find a solution.

Item 79: Before promulgating a bill, The President of the Republic may request a second or third reading of the bill in parliament.

Item 80: The President of the Republic may personally attend the session or send a message. In the case of the latter, the message may not be subject to deliberations.

Item 81: The agenda shall be drawn by the Bureau.

Item 82: The President of the Republic shall promulgate the bills adopted by parliament.

CHAPTER SIX

JUDICIAL POWER

Item 83: The judicial power shall be independent of the executive and legislative powers. It shall exercise the legal functions of the state.

Item 84: Justice shall be administered in the name of the people by the President of

the Republic.

The organic law relative to the Judicial power shall determine the organization and attributions of courts necessary for the effective functioning of justice. This same law shall define the statutes of the magistracy.

Item 85: The exercise of the judicial power in every type of hearing shall be reserved exclusively to the jurisdictions and courts as determined by the law.

Item 86: The Head of State shall be the first magistrate of the nation. He shall guarantee the independence of the judicial power.

Item 87: The judges and magistrates shall not enjoy any form of immunity in the exercise of their duties.

Item 88: The principle of the unity of the Judicial Power shall be the basis of the organization and functioning of courts.

The law shall determine the judicial system applicable in military courts.

Item 89: Judgments shall be public, but deliberations shall be in camera.

Item 90: The Supreme Court of Justice shall be the supreme organ of the judicial system.

Item 91: The President of the Supreme Court and its members shall be appointed by the president of the Republic for a period of five years.

Item 92: The legal Department shall ensure the strict respect of the constitution, the laws and legal dispositions of all state organs.

Item 93: The Attorney General and his deputies shall be appointed by the President of the Republic.

CHAPTER SEVEN

THE CONSTITUTIONAL COUNCIL

Item 94: The constitutional Council shall comprise a President and four other members appointed by the President of the Republic.

Two of its members shall be proposed by the National Assembly. The term of office of its members shall be seven (7) years.

The attributions of the constitutional council shall comprise the following:

- a. Taking cognizance of the constitutionality of laws.
- b. Taking cognizance of and annulling laws.
- c. Proclaiming the final results of presidential municipal and legislative elections and referendums.

- d. Declaring the invalidity of the president of the Republic and the Prime Minister.
- e. Determining the supreme nature of the constitution within the framework of development.
- f. Taking cognizance of conflicts between constitutional bodies.
- g. Taking cognizance of the non-conformity of international treaties as provided by the constitution.
- h. And its other duties attributed by the law.

Item 95: The bodies legally entitled to institute an appeal of unconstitutionality shall be:

- The President of the Republic, Head of State
- The Prime Minister, Head of Government
- The National Assembly; three-quarter of its members
- The Attorney General

Item 96: Members of the Constitutional Council shall not be eligible or be members of government or of Parliament.

Item 97: The organic law shall regulate the functioning and status of its members, and the implementation procedures of its actions.

CHAPTER EIGHT

THE HIGHER JUDICIAL COUNCIL

Item 98: The Higher Judicial Council shall head this organ. It shall comprise a President and six other members appointed by the Head of State for a period of 5 years.

The organic law shall regulate the structure, functioning and legal status of its members.

PART III

THE ARMED FORCES, STATE SECURITY AND NATIONAL DEFENSE.

Item 99: The Armed Forces and State Security are a national institution whose mission shall be to maintain territorial integrity, defend national sovereignty, protect the supreme values of the fatherland, the security of the state, maintain public order and ensure the smooth functioning of government services in conformity with the constitution.

The Armed Forces shall enact by-laws regulating its functioning.

Item 100: Where necessary, the national defense shall enjoy the support of all the forces of the nation and the resources.

An organic law shall regulate its functioning

PART FOUR

LOCAL COMMUNITIES

Item 101: Local Communities shall have a legal status. Under the responsibility of the Government and the administrative authorities of the Regions, they shall promote social and economic development programmes as provided by the law.

Item 102: Local Communities shall contribute to the achievement of the development plans of the state.

The law shall determine its competence, functioning and legal status.

PART FIVE

REVISION OF THE CONSTITUTION

Item 103: The President of the Republic may summon a referendum to revise the constitution; the absolute majority of members of Parliament may equally request amendments.

Item 104: The republican and democratic systems of the state, the national unity and territorial integrity shall not be subject to reforms.

SPECIAL PROVISIONS

No special provision shall be contrary to the constitution.

FINAL PROVISIONS

The Present Constitution shall enter into force after enactment and shall be registered and published in the official Gazette.

MALABO, 17 JANUARY 1996.

FOR A BETTER GUINEA

OBIANG NGUEMA MBASOGO

PRESIDENT OF THE REPUBLIC OF EQUATORIAL GUINEA.