

CONSTITUTION of October 4, 1958

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PREAMBLE

The French people solemnly proclaim their attachment to the Rights of Man and the principles of national sovereignty as defined by the Declaration of 1789, confirmed and complemented by the Preamble to the Constitution of 1946.

By virtue of these principles and that of the self-determination of peoples, the Republic offers to the overseas territories that express the will to adhere to them new institutions founded on the common ideal of liberty, equality and fraternity and conceived with a view to their democratic development.

Article 1

France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs. It shall be organised on a decentralised basis.

TITLE I - ON SOVEREIGNTY

Article 2

The language of the Republic shall be French.
The national emblem shall be the blue, white and red tricolour flag.
The national anthem shall be La Marseillaise.
The motto of the Republic shall be " Liberty, Equality, Fraternity ".
Its principle shall be : government of the people, by the people and for the people.

Article 3

National sovereignty shall belong to the people, who shall exercise it through their representatives and by means of referendum.

No section of the people nor any individual may arrogate to itself, or to himself, the exercise thereof.

Suffrage may be direct or indirect as provided by the Constitution. It shall always be universal, equal and secret.

All French citizens of either sex who have reached their majority and are in possession of their civil and political rights may vote as provided by statute.

Statutes shall promote equal access by women and men to elective offices and positions.

Article 4

Political parties and groups shall contribute to the exercise of suffrage. They shall be formed and carry on their activities freely. They must respect the principles of national sovereignty and democracy.

They shall contribute to the implementation of the principle set out in the last paragraph of article 3 as provided by statute.

TITLE II - THE PRESIDENT OF THE REPUBLIC

Article 5

The President of the Republic shall see that the Constitution is observed. He shall ensure, by his arbitration, the proper functioning of the public authorities and the continuity of the State.

He shall be the guarantor of national independence, territorial integrity and observance of treaties.

Article 6

The President of the Republic shall be elected for five years by direct universal suffrage.

The manner of implementation of this article shall be determined by an institutional Act.

Article 7

The President of the Republic shall be elected by an absolute majority of the votes cast. If such a majority is not obtained on the first ballot, a second ballot shall take place on the fourteenth day thereafter. Only the two candidates who received the greatest number of votes in the first ballot, account being taken of any withdrawal of candidates with more votes, may stand in the second ballot.

Balloting shall be begun by a writ of election issued by the Government.

The election of the new President shall be held not less than twenty days and not more than thirty-five days before the expiry of the term of the President in office.

Should the Presidency of the Republic fall vacant for any reason whatsoever, or should the Constitutional Council on a reference from the Government rule by an absolute majority of its members that the President of the Republic is incapacitated, the duties of the President of the Republic, with the exception of those specified in articles 11 and 12, shall be temporarily exercised by the President of the Senate or, if the latter is in turn incapacitated, by the Government.

In the case of a vacancy, or where the incapacity of the President is declared permanent by the Constitutional Council, the ballot for the election of the new President shall, except in the event of a finding by the Constitutional Council of force majeure, be held not less than twenty days and not more than thirty-five days after the beginning of the vacancy or the declaration that the incapacity is permanent. If, in the seven days preceding the last day for lodging presentations of candidature, any of the persons who, less than thirty days prior to that day, have publicly announced their decision to be a candidate dies or becomes incapacitated, the Constitutional Council may decide to postpone the election.

If, before the first ballot, any of the candidates dies or becomes incapacitated, the Constitutional Council shall declare the election postponed.

In the event of the death or incapacitation of either of the two candidates in the lead in the first ballot before any withdrawals, the Constitutional Council shall declare that the electoral procedure must be repeated in full ; the same shall apply in the event of the death or incapacitation of either of the two candidates remaining standing for the second ballot.

All cases shall be referred to the Constitutional Council in the manner laid down in the second paragraph of article 61 or in that laid down for the presentation of candidates in the institutional Act provided for in article 6.

The Constitutional Council may extend the time limits set in the third and fifth paragraphs, provided that polling takes place not later than thirty-five days after the decision of the Constitutional Council. If the implementation of the provisions of this paragraph results in the postponement of the election beyond the expiry of the term of the President in office, the latter shall remain in office until his successor is proclaimed.

Neither articles 49 and 50 nor article 89 of the Constitution shall be implemented during the vacancy of the Presidency of the Republic or during the period between the declaration that the incapacity of the President of the Republic is permanent and the election of his successor.

Article 8

The President of the Republic shall appoint the Prime Minister. He shall terminate the appointment of the Prime Minister when the latter tenders the resignation of the Government.

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

Article 9

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

Article 10

The President of the Republic shall promulgate Acts of Parliament within fifteen days following the final adoption of an Act and its transmission to the Government.

He may, before the expiry of this time limit, ask Parliament to reconsider the Act or sections of the Act. Reconsideration shall not be refused.

Article 11

The President of the Republic may, on a proposal from the Government when Parliament is in session or on a joint motion of the two assemblies, published in either case in the Journal officiel, submit to a referendum any government bill which deals with the organization of the public authorities, or with reforms relating to the economic or social policy of the Nation and to the public services contributing thereto, or which provides for authorization to ratify a treaty that, although not contrary to the Constitution, would affect the functioning of the institutions.

Where the referendum is held in response to a proposal by the Government, the latter shall make a statement before each assembly which shall be followed by a debate.

Where the referendum decides in favour of the government bill, the President of the Republic shall promulgate it within fifteen days following the proclamation of the results of the vote.

Article 12

The President of the Republic may, after consulting the Prime Minister and the Presidents of the assemblies, declare the National Assembly dissolved.

A general election shall take place not less than twenty days and not more than forty days after the dissolution.

The National Assembly shall convene as of right on the second Thursday following its election. Should it so convene outside the period prescribed for the ordinary session, a session shall be called by right for a fifteen-day period.

No further dissolution shall take place within a year following this election.

Article 13

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

He shall make appointments to the civil and military posts of the State.

Conseillers d'Etat, the grand chancelier de la Légion d'Honneur, ambassadors and envoys extraordinary, senior members of the Audit Court, prefects, State representatives in the overseas territories to which article 74 applies and in New Caledonia, general officers, recteurs des académies and heads of central government services shall be appointed in the Council of Ministers.

An institutional Act shall determine the other posts to be filled in the Council of Ministers and the manner in which the power of the President of the Republic to make appointments may be delegated by him to be exercised on his behalf.

Article 14

The President of the Republic shall accredit ambassadors and envoys extraordinary to foreign powers ; foreign ambassadors and envoys extraordinary shall be accredited to him.

Article 15

The President of the Republic shall be commander-in-chief of the armed forces. He shall preside over the higher national defence councils and committees.

Article 16

Where the institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfilment of its international commitments are under serious and immediate threat, and where the proper functioning of the constitutional public authorities is interrupted, the President of the Republic shall take the measures required by these circumstances, after formally consulting the Prime Minister, the Presidents of the assemblies and the Constitutional Council.

He shall inform the Nation of these measures in a message.

The measures must stem from the desire to provide the constitutional public authorities, in the shortest possible time, with the means to carry out their duties. The Constitutional

Council shall be consulted with regard to such measures. Parliament shall convene as of right.

The National Assembly shall not be dissolved during the exercise of the emergency powers.

Article 17

The President of the Republic has the right to grant pardon.

Article 18

The President of the Republic shall communicate with the two assemblies of Parliament by means of messages, which he shall cause to be read and which shall not be the occasion for any debate.

Outside sessions, Parliament shall be convened especially for this purpose.

Article 19

Acts of the President of the Republic, other than those provided for under articles 8 (first paragraph), 11, 12, 16, 18, 54, 56 and 61, shall be countersigned by the Prime Minister and, where required, by the appropriate ministers.

TITLE III - THE GOVERNMENT

Article 20

The Government shall determine and conduct the policy of the Nation.

It shall have at its disposal the civil service and the armed forces.

It shall be responsible to Parliament in accordance with the terms and procedures set out in articles 49 and 50.

Article 21

The Prime Minister shall direct the operation of the Government. He shall be responsible for national defence. He shall ensure the implementation of legislation. Subject to article 13, he shall have power to make regulations and shall make appointments to civil and military posts.

He may delegate certain of his powers to ministers.

He shall deputize, if the case arises, for the President of the Republic as chairman of the councils and committees referred to in article 15.

He may, in exceptional cases, deputize for him as chairman of a meeting of the Council of Ministers by virtue of an express delegation of powers for a specific agenda.

Article 22

Acts of the Prime Minister shall be countersigned, where required, by the ministers responsible for their implementation.

Article 23

The duties of member of the Government shall be incompatible with the exercise of any parliamentary office, any position of occupational representation at national level, any public employment or any occupational activity.

An institutional Act shall determine the manner in which the holders of such offices, positions or employment shall be replaced.

The replacement of Members of Parliament shall take place in accordance with the provisions of article 25.

TITLE IV - PARLIAMENT

Article 24

Parliament shall comprise the National Assembly and the Senate.

The deputies to the National Assembly shall be elected by direct suffrage.

The Senate shall be elected by indirect suffrage. The representation of the territorial units of the Republic shall be ensured in the Senate. French nationals settled outside France shall be represented in the Senate.

Article 25

An institutional Act shall determine the term for which each assembly is elected, the number of its members, their allowances, the conditions of eligibility and the terms of disqualification and of incompatibility with membership.

It shall likewise determine the manner of election of those persons who, in the event of a vacancy, are to replace deputies or senators whose seats have become vacant, until the general or partial renewal by election of the assembly to which they belonged.

Article 26

No Member of Parliament shall be prosecuted, investigated, arrested, detained or tried in respect of opinions expressed or votes cast in the exercise of his duties.

No Member of Parliament shall be arrested for a serious crime or other major offence, nor shall he be subjected to any other custodial or semi-custodial measure, without the authorization of the Bureau of the assembly of which he is a member. Such authorization shall not be required in the case of a serious crime or other major offence committed *flagrante delicto* or a final sentence.

The detention, subjection to custodial or semi-custodial measures, or prosecution of a Member of Parliament shall be suspended for the duration of the session if the assembly of which he is a member so requires.

The assembly concerned shall convene as of right for additional sittings in order to permit the preceding paragraph to be applied should circumstances so require.

Article 27

Any binding instruction shall be void.

The right to vote of Members of Parliament shall be personal.

An institutional Act may, in exceptional cases, authorize voting by proxy. In that event, no member shall be given more than one proxy.

Article 28

Parliament shall convene as of right in one ordinary session which shall start on the first working day of October and shall end on the last working day of June.

The number of days for which each assembly may sit during the ordinary session shall not exceed one hundred and twenty. The sitting weeks shall be determined by each assembly.

The Prime Minister, after consulting the President of the assembly concerned, or the majority of the members of each assembly may decide to meet for additional sitting days.

The days and hours of sittings shall be determined by the rules of procedure of each assembly.

Article 29

Parliament shall convene in extraordinary session, at the request of the Prime Minister or of the majority of the members of the National Assembly, to consider a specific agenda.

Where an extraordinary session is held at the request of members of the National Assembly, the decree closing it shall take effect once Parliament has dealt with the agenda for which it was convened, or twelve days after its first sitting, whichever shall be the earlier.

Only the Prime Minister may request a new session before the end of the month following the decree closing an extraordinary session.

Article 30

Except where Parliament convenes as of right, extraordinary sessions shall be opened and closed by decree of the President of the Republic.

Article 31

Members of the Government shall have access to the two assemblies.

They shall address either assembly whenever they so request. They may be assisted by government commissioners.

Article 32

The President of the National Assembly shall be elected for the duration of the term for which the Assembly is elected. The President of the Senate shall be elected after each partial renewal by election.

Article 33

The sittings of the two assemblies shall be public. A verbatim report of the debates shall be published in the Journal officiel.

Each assembly may sit in camera at the request of the Prime Minister or of one tenth of its members.

TITLE V - ON RELATIONS BETWEEN PARLIAMENT AND THE GOVERNMENT

Article 34

Statutes shall be passed by Parliament.

Statutes shall determine the rules concerning :

civic rights and the fundamental guarantees granted to citizens for the exercise of their public liberties ; the obligations imposed for the purposes of national defence upon citizens in respect of their persons and their property ;

- nationality, the status and legal capacity of persons, matrimonial regimes, inheritance and gifts ;

- the determination of serious crimes and other major offences and the penalties applicable to them ; criminal procedure ; amnesty ; the establishment of new classes of courts and tribunals and the regulations governing the members of the judiciary ;

- the base, rates and methods of collection of taxes of all types ; the issue of currency.

Statutes shall likewise determine the rules concerning :

- the electoral systems of parliamentary assemblies and local assemblies ;

- the creation of categories of public establishments ;

- the fundamental guarantees granted to civil and military personnel employed by the State ;

- the nationalization of enterprises and transfers of ownership in enterprises from the public to the private sector.

Statutes shall determine the fundamental principles of :

-the general organization of national defence ;

- the self-government of territorial units, their powers and their resources ;

- education ;

- the regime governing ownership, rights in rem and civil and commercial obligations ;

- labour law, trade-union law and social security.

Finance Acts shall determine the resources and obligations of the State in the manner and with the reservations specified in an institutional Act.

Social security finance Acts shall determine the general conditions for the financial balance of social security and, in the light of their revenue forecasts, shall determine expenditure targets in the manner and with the reservations specified in an institutional Act.

Programme Acts shall determine the objectives of the economic and social action of the State.

The provisions of this article may be enlarged upon and complemented by an institutional Act.

Article 35

A declaration of war shall be authorized by Parliament.

Article 36

Martial law shall be decreed in the Council of Ministers.

Its extension beyond twelve days may be authorized only by Parliament.

Article 37

Matters other than those that fall within the ambit of statute shall be matters for regulation.

Acts of Parliament passed concerning these matters may be amended by decree issued after consultation with the Conseil d'Etat. Any such Acts which are passed after this Constitution has entered into force shall be amended by decree only if the Constitutional Council has declared that they are matters for regulation as defined in the preceding paragraph.

Article 37-1

Statutes and regulations may contain provisions enacted on an experimental basis for limited purposes and duration.

Article 38

In order to carry out its programme, the Government may ask Parliament for authorization, for a limited period, to take measures by ordinance that are normally a matter for statute.

Ordinances shall be issued in the Council of Ministers, after consultation with the Conseil d'Etat. They shall come into force upon publication, but shall lapse if the bill to ratify them is not laid before Parliament before the date set by the enabling Act.

At the end of the period referred to in the first paragraph of this article, ordinances may be amended only by an Act of Parliament in those areas which are matters for statute.

Article 39

The Prime Minister and Members of Parliament alike shall have the right to initiate statutes. Government bills shall be discussed in the Council of Ministers after consultation with the Conseil d'Etat and shall be introduced in one of the two assemblies.

Finance bills and social security finance bills shall be presented first to the National Assembly. Without prejudice to the first paragraph of article 44, bills having the primary purpose of organising territorial units and bills relating to bodies representing French nationals settled outside France shall be presented first to the Senate.

Article 40

Bills and amendments introduced by Members of Parliament shall not be admissible where their adoption would have as a consequence either a diminution of public resources or the creation or increase of an item of public expenditure.

Article 41

Should it be found in the course of the legislative process that a Member's bill or amendment is not a matter for statute or is contrary to a delegation granted by virtue of article 38, the Government may object that it is inadmissible.

In the event of disagreement between the Government and the President of the assembly concerned, the Constitutional Council, at the request of one or the other, shall rule within eight days.

Article 42

The discussion of government bills shall pertain, in the assembly which first has the bill before it, to the text introduced by the Government.

An assembly which has before it a text passed by the other assembly shall deliberate upon that text.

Article 43

Government and Members' bills shall, at the request of the Government or of the assembly having the bill before it, be referred for consideration to committees specially set up for this purpose.

Government and Members' bills concerning which such a request has not been made shall be referred to one of the standing committees, the number of which shall be limited to six in each assembly.

Article 44

Members of Parliament and the Government shall have the right of amendment.

Once the debate has begun, the Government may object to the consideration of any amendment which has not previously been referred to committee.

If the Government so requests, the assembly having the bill before it shall decide by a single vote on all or part of the text under discussion, on the sole basis of the amendments proposed or accepted by the Government.

Article 45

Every government or Member's bill shall be considered successively in the two assemblies of Parliament with a view to the adoption of an identical text.

If, as a result of a disagreement between the two assemblies, it has proved impossible to adopt a government or Member's bill after two readings by each assembly or, if the Government has declared the matter urgent, after a single reading by each of them, the Prime Minister may convene a joint committee, composed of an equal number of members from each assembly, to propose a text on the provisions still under discussion.

The text drafted by the joint committee may be submitted by the Government to both assemblies for approval. No amendment shall be admissible without the consent of the Government.

If the joint committee does not succeed in adopting a common text, or if the text is not adopted as provided in the preceding paragraph, the Government may, after a further reading by the National Assembly and by the Senate, ask the National Assembly to make a final decision. In that event, the National Assembly may reconsider either the text drafted by the joint committee, or the last text passed by itself, as modified, if such is the case, by any amendment or amendments adopted by the Senate.

Article 46

Acts of Parliament that the Constitution characterizes as institutional shall be passed and amended as provided in this article.

A government or Member's bill shall not be debated and put to the vote in the assembly in which it was first introduced until fifteen days have elapsed since its introduction.

The procedure set out in article 45 shall apply. Nevertheless, in the absence of agreement between the two assemblies, the text may be adopted by the National Assembly on final reading only by an absolute majority of its members.

Institutional Acts relating to the Senate must be passed in identical terms by the two assemblies.

Institutional Acts shall not be promulgated until the Constitutional Council has declared their conformity with the Constitution.

Article 47

Parliament shall pass finance bills in the manner provided by an institutional Act.

Should the National Assembly fail to reach a decision on first reading within forty days following the introduction of a bill, the Government shall refer the bill to the Senate, which must rule within fifteen days. The procedure set out in article 45 shall then apply.

Should Parliament fail to reach a decision within seventy days, the provisions of the bill may be brought into force by ordinance.

Should the finance bill establishing the resources and expenditures for a financial year not be introduced in time for promulgation before the beginning of that year, the Government shall as a matter of urgency ask Parliament for authorization to collect taxes and shall make available by decree the funds needed to meet the commitments already voted for.

The time limits set by this article shall be suspended when Parliament is not in session.

The Audit Court shall assist Parliament and the Government in monitoring the implementation of finance Acts.

Article 47-1

Parliament shall pass social security finance bills in the manner provided by an institutional Act.

Should the National Assembly fail to reach a decision on first reading within twenty days following the introduction of a bill, the Government shall refer the bill to the Senate, which must rule within fifteen days. The procedure set out in article 45 shall then apply.

Should Parliament fail to reach a decision within fifty days, the provisions of the bill may be implemented by ordinance.

The time limits set by this article shall be suspended when Parliament is not in session and, as regards each assembly, during the weeks when it has decided not to sit in accordance with the second paragraph of article 28.

The Audit Court shall assist Parliament and the Government in monitoring the implementation of social security finance Acts.

Article 48

Without prejudice to the application of the last three paragraphs of article 28, precedence shall be given on the agendas of the assemblies, and in the order determined by the Government, to the discussion of government bills and of Members' bills accepted by the Government. At one sitting a week at least precedence shall be given to questions from Members of Parliament and to answers by the Government. At one sitting a month precedence shall be given to the agenda determined by each assembly.

Article 49

The Prime Minister, after deliberation by the Council of Ministers, may make the Government's programme or possibly a statement of its general policy an issue of its responsibility before the National Assembly.

The National Assembly may raise an issue of the Government's responsibility by passing a motion of censure. Such a motion shall not be admissible unless it is signed by at least one tenth of the members of the National Assembly. Voting may not take place within forty-eight hours after the motion has been introduced. Only the votes in favour of the motion of censure shall be counted ; the motion of censure shall not be adopted unless it is voted for by the majority of the members of the Assembly. Except as provided in the following paragraph, a

deputy shall not sign more than three motions of censure during a single ordinary session and more than one during a single extraordinary session.

The Prime Minister may, after deliberation by the Council of Ministers, make the passing of a bill an issue of the Government's responsibility before the National Assembly. In that event, the bill shall be considered adopted unless a motion of censure, introduced within the subsequent twenty-four hours, is carried as provided in the preceding paragraph.

The Prime Minister may ask the Senate to approve a statement of general policy.

Article 50

Where the National Assembly carries a motion of censure, or where it fails to endorse the programme or a statement of general policy of the Government, the Prime Minister must tender the resignation of the Government to the President of the Republic.

Article 51

The closing of ordinary or extraordinary sessions shall be postponed by right in order to permit the application of article 49, if the case arises. Additional sittings shall be held by right for the same purpose.

TITLE VI - ON TREATIES AND INTERNATIONAL AGREEMENTS

Article 52

The President of the Republic shall negotiate and ratify treaties.

He shall be informed of any negotiations for the conclusion of an international agreement not subject to ratification.

Article 53

Peace treaties, commercial treaties, treaties or agreements relating to international organization, those that commit the finances of the State, those that modify provisions which are matters for statute, those relating to the status of persons, and those that involve the cession, exchange or addition of territory, may be ratified or approved only by virtue of an Act of Parliament.

They shall not take effect until they have been ratified or approved.

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

Article 53-1

The Republic may conclude, with European States that are bound by commitments identical with its own in the matter of asylum and the protection of human rights and fundamental freedoms, agreements determining their respective jurisdiction in regard to the consideration of requests for asylum submitted to them.

However, even if the request does not fall within their jurisdiction under the terms of these agreements, the authorities of the Republic shall remain empowered to grant asylum to any foreigner who is persecuted for his action in pursuit of freedom or who seeks the protection of France for some other reason.

Article 53-2

The Republic may recognize the jurisdiction of the International Criminal Court as provided by the treaty signed on 18 July 1998.

Article 54

If the Constitutional Council, on a reference from the President of the Republic, from the Prime Minister, from the President of one or the other assembly, or from sixty deputies or sixty senators, has declared that an international commitment contains a clause contrary to the Constitution, authorization to ratify or approve the international commitment in question may be given only after amendment of the Constitution.

Article 55

Treaties or agreements duly ratified or approved shall, upon publication, prevail over Acts of Parliament, subject, in regard to each agreement or treaty, to its application by the other party.

TITLE VII - THE CONSTITUTIONAL COUNCIL

Article 56

The Constitutional Council shall consist of nine members, whose term of office shall be nine years and shall not be renewable. One third of the membership of the Constitutional Council shall be renewed every three years. Three of its members shall be appointed by the President of the Republic, three by the President of the National Assembly and three by the President of the Senate.

In addition to the nine members provided for above, former Presidents of the Republic shall be ex officio life members of the Constitutional Council.

The President shall be appointed by the President of the Republic. He shall have a casting vote in the event of a tie.

Article 57

The office of member of the Constitutional Council shall be incompatible with that of minister or Member of Parliament. Other incompatibilities shall be determined by an institutional Act.

Article 58

The Constitutional Council shall ensure the proper conduct of the election of the President of the Republic.

It shall examine complaints and shall declare the results of the vote.

Article 59

The Constitutional Council shall rule on the proper conduct of the election of deputies and senators in disputed cases.

Article 60

The Constitutional Council shall ensure the proper conduct of referendum proceedings provided for by articles 11 and 89 and shall declare the results of the referendum.

Article 61

Institutional Acts, before their promulgation, and the rules of procedure of the parliamentary assemblies, before their entry into force, must be referred to the Constitutional Council, which shall rule on their conformity with the Constitution.

To the same end, Acts of Parliament may be referred to the Constitutional Council, before their promulgation, by the President of the Republic, the Prime Minister, the President of the National Assembly, the President of the Senate, or sixty deputies or sixty senators.

In the cases provided for in the two preceding paragraphs, the Constitutional Council must rule within one month. However, at the request of the Government, if the matter is urgent, this period shall be reduced to eight days.

In these same cases, reference to the Constitutional Council shall suspend the time limit for promulgation.

Article 62

A provision declared unconstitutional shall be neither promulgated nor implemented.

No appeal shall lie from the decisions of the Constitutional Council. They shall be binding on public authorities and on all administrative authorities and all courts.

Article 63

An institutional Act shall determine the rules of organization and operation of the Constitutional Council, the procedure to be followed before it and, in particular, the time limits allowed for referring disputes to it.

TITLE VIII - ON JUDICIAL AUTHORITY

Article 64

The President of the Republic shall be the guarantor of the independence of the judicial authority.

He shall be assisted by the High Council of the Judiciary.

An institutional Act shall determine the regulations governing the members of the judiciary.

Judges shall be irremovable.

Article 65

The High Council of the Judiciary shall be presided over by the President of the Republic. The Minister of Justice shall be its vice-president ex officio. He may deputize for the President of the Republic.

The High Council of the Judiciary shall consist of two sections, one with jurisdiction for judges, the other for public prosecutors.

The section with jurisdiction for judges shall comprise, in addition to the President of the Republic and the Minister of Justice, five judges and one public prosecutor, one conseiller d'Etat appointed by the Conseil d'Etat, and three prominent citizens who are not members either of Parliament or of the judiciary, appointed respectively by the President of the Republic, the President of the National Assembly and the President of the Senate.

The section with jurisdiction for public prosecutors shall comprise, in addition to the President of the Republic and the Minister of Justice, five public prosecutors and one judge, and the conseiller d'Etat and the three prominent citizens referred to in the preceding paragraph.

The section of the High Council of the Judiciary with jurisdiction for judges shall make nominations for the appointment of judges in the Court of Cassation, the first presidents of the courts of appeal and the presidents of the tribunaux de grande instance. Other judges shall be appointed with its assent.

It shall act as the disciplinary council for judges. When acting in that capacity, it shall be presided over by the first president of the Court of Cassation. The section of the High Council of the Judiciary with jurisdiction for public prosecutors shall give its opinion on the appointment of public prosecutors, with the exception of posts to be filled in the Council of Ministers.

It shall give its opinion on disciplinary penalties with regard to public prosecutors. When acting in that capacity, it shall be presided over by the chief public prosecutor at the Court of Cassation.

An institutional Act shall determine the manner in which this article is to be implemented.

Article 66

No one shall be arbitrarily detained.

The judicial authority, guardian of individual liberty, shall ensure the observance of this principle as provided by statute.

TITLE IX - THE HIGH COURT OF JUSTICE

Article 67

A High Court of Justice shall be established.

It shall be composed, in equal number, of members elected from among their ranks by the National Assembly and the Senate, after each general or partial renewal by election of these assemblies. It shall elect its President from among its members.

An institutional Act shall determine the composition of the High Court of Justice, its rules of operation and the procedure to be applied before it.

Article 68

The President of the Republic shall not be held liable for acts performed in the exercise of his duties except in the case of high treason. He may be indicted only by the two assemblies ruling by identical votes in open ballots and by an absolute majority of their members ; he shall be tried by the High Court of Justice.

TITLE X - ON THE CRIMINAL LIABILITY OF MEMBERS OF THE GOVERNMENT

Article 68-1

Members of the Government shall be criminally liable for acts performed in the exercise of their duties and classified as serious crimes or other major offences at the time they were committed.

They shall be tried by the Court of Justice of the Republic.

The Court of Justice of the Republic shall be bound by such definition of serious crimes and other major offences and such determination of penalties as are laid down by statute.

Article 68-2

The Court of Justice of the Republic shall consist of fifteen members : twelve Members of Parliament, elected in equal number from among their ranks by the National Assembly and the Senate after each general or partial renewal by election of these assemblies, and three judges of the Court of Cassation, one of whom shall preside over the Court of Justice of the Republic.

Any person claiming to be a victim of a serious crime or other major offence committed by a member of the Government in the exercise of his duties may lodge a complaint with a petitions committee.

This committee shall order the case to be either closed or forwarded to the chief public prosecutor at the Court of Cassation for referral to the Court of Justice of the Republic.

The chief public prosecutor at the Court of Cassation may also make a reference ex officio to the Court of Justice of the Republic with the assent of the petitions committee. An institutional Act shall determine the manner in which this article is to be implemented.

Article 68-3

The provisions of this title shall apply to acts committed before its entry into force.

TITLE XI - THE ECONOMIC AND SOCIAL COUNCIL

Article 69

The Economic and Social Council, on a reference from the Government, shall give its opinion on such government bills, draft ordinances or decrees, and Members' bills as have been submitted to it.

A member of the Economic and Social Council may be designated by the Council to present, to the parliamentary assemblies, the opinion of the Council on such bills or drafts as have been submitted to it.

Article 70

The Economic and Social Council may likewise be consulted by the Government on any economic or social issue. Any plan or programme bill of an economic or social character shall be submitted to it for its opinion.

Article 71

The composition of the Economic and Social Council and its rules of procedure shall be determined by an institutional Act.

TITLE XII - ON TERRITORIAL UNITS

Article 72

The territorial units of the Republic shall be the communes, the departments, the regions, the special-status areas and the overseas territories to which article 74 applies. Any other territorial unit shall be established by statute, in appropriate

cases in place of one or more units provided for by this paragraph.

Territorial units may take decisions in all matters that are within powers that can best be exercised at their level.

In the manner provided by statute, these units shall be self-governing through elected councils and have power to make regulations.

In the manner provided by institutional act, where the essential conditions for the exercise of public liberties or of a right secured by the Constitution are not affected, territorial units or associations thereof may, where provision is made by statute or regulation, as the case may be, derogate on an experimental basis for limited purposes and duration from provisions laid down by statute or regulation governing the exercise of their powers.

No territorial unit may exercise authority over another. However, where the exercise of a power requires the combined action of several territorial units, one of those units or one of their associations may be authorised by statute to organise their joint action.

In the territorial units of the Republic, the State representative, representing each of the Members of the Government, shall be responsible for national interests, administrative supervision and the observance of the law.

Article 72-1

The conditions in which voters in each territorial unit may use their right of petition to ask for a matter within the powers of the unit to be entered on the agenda of its decision-making assembly shall be determined by statute.

In the conditions determined by institutional act, draft decisions or acts within the powers of a territorial unit may, on its initiative, be presented for a decision to be taken by the voters in that unit by referendum.

Where there is a proposal to establish a special-status territorial unit or to modify its organisation, a decision may be taken by statute to consult the voters registered in the relevant units. Voters may also be consulted on changes to the boundaries of territorial units in the conditions determined by statute.

Article 72-2

Territorial units shall enjoy resources of which they may dispose freely on the conditions determined by statute.

They may receive all or part of the proceeds of taxes of all kinds. They may be authorised by statute to determine the basis of assessment and the rates, within the limits set by such statutes.

The tax revenue and other own resources of territorial units shall, for each category of territorial unit, represent a decisive share of their resources. The conditions for the implementation of this rule shall be determined by institutional act.

Whenever powers are transferred between central government and the territorial units, resources equivalent to those which were devoted to the exercise of those powers shall be transferred also. Wherever the effect of powers newly created or extended is to increase the expenditure to be borne by territorial units, resources determined by statute shall be allocated.

Equalisation mechanisms to promote equality between territorial units shall be provided for by statute.

Article 72-3

The Republic shall recognise the overseas populations within the French people in a common ideal of freedom, equality and fraternity.

Guadeloupe, Guyane, Martinique, Réunion, Mayotte, Saint-Pierre-et-Miquelon, the Wallis and Futuna Islands and French Polynesia shall be governed by article 73 for the overseas departments and regions and for the territorial units established by virtue of the final paragraph of article 73, and by article 74 for the other units.

The status of New Caledonia shall be governed by title XIII.

The legislative system and special organisation of the French Southern and Antarctic Territories shall be determined by statute.

Article 72-4

There may be no change for all or part of one of the units to which the second paragraph of article 72-3 applies, from one to another of the statuses provided for by articles 73 and 74, without the prior consent of voters in the relevant unit or part of a unit being sought in the manner provided for by the paragraph below. Such change of status shall be made by institutional act.

The President of the Republic may, on a proposal from the Government when Parliament is in session or on a joint motion of the two assemblies, published in either case in the *Journal officiel*, decide to consult voters in an overseas territorial unit on a question relating to its organisation, its powers or its legislative system. Where the referendum concerns a change as provided for by the foregoing paragraph and is held in response to a proposal by the Government, the Government shall make a statement before each assembly which shall be followed by a debate.

Article 73

In the overseas departments and regions, statutes and regulations shall be automatically applicable. They may be adapted in the light of the specific characteristics and constraints of those units.

Those adaptations may be decided on by the units in areas in which their powers are exercised if the relevant units have been empowered to that end by statute.

By way of derogation from the first paragraph and in order to take account of their specific features, units to which this article applies may be empowered by statute to determine themselves the rules applicable in their territory in a limited number of matters that fall to be determined by statute.

These rules may not concern nationality, civic rights, the guarantees of public liberties, the status and capacity of persons, the organisation of justice, criminal law, criminal procedure, foreign policy, defence, public security and public order, currency, credit and exchange, or electoral law. This enumeration may be clarified and amplified by an institutional act.

The two foregoing paragraphs shall not apply in the department and region of Réunion.

The powers to be conferred pursuant to the second and third paragraphs shall be decided on at the request of the relevant territorial unit in the conditions and subject to the reservations provided for by an institutional act. They may not be conferred where the essential conditions for the exercise of public liberties or of a right secured by the Constitution are affected.

A territorial unit taking the place of an overseas department and region or a single decision-making assembly for the two units may not be established by statute unless the consent of the voters registered there has first been sought as provided by the second paragraph of article 72-4.

Article 74

The overseas territorial units to which this article applies shall have a status reflecting their respective local interests within the Republic.

This status shall be determined by an institutional act adopted after the opinion of the decision-making assembly has been received and specifying:

- the conditions in which statutes and regulations shall apply there;
- the powers of the territorial unit; subject to those already exercised by it, the transfer of central government powers may not relate to the matters listed in the fourth paragraph of article 73, as specified and amplified by the institutional act therein referred to;
- the rules governing the organisation and operation of the institutions of the territorial unit and the electoral system for its decision-making assembly;
- the conditions in which its institutions are consulted on Government or Members' bills and draft ordinances or decrees containing provisions relating specifically to the unit and to the ratification or approval of international commitments entered into in matters within its powers.

The institutional act may also, for such territorial units as enjoy autonomy, determine the conditions in which:

- the Council of State shall exercise specific judicial review of certain categories of acts adopted by the decision-making assembly in matters which are within its powers in the areas reserved for statute;
- the decision-making assembly may amend a statute promulgated after the entry into force of the territorial unit's new status, where the Constitutional Council, acting notably on a referral from the authorities of the territorial unit, has confirmed that the statute governs matters that are within the powers of the relevant unit;
- measures justified by local needs may be taken by the territorial unit in favour of its population as regards access to employment, the right of establishment for the exercise of a professional activity or the protection of the land;
- the unit may, subject to review by the central government, participate in exercise of the powers that it retains, in full respect for the guaranties given throughout national territory for the exercise of public liberties.

The other rules governing the specific organisation of the territorial units to which this article applies shall be determined and amended by statute after consultation with their decision-making assembly.

Article 74-1

In the territorial units to which article 74 applies and in New Caledonia, the Government may, in matters which remains within its power, extend by ordinance, with the requisite adaptations, the legislative provisions applying in metropolitan France, provided the statute has not expressly excluded the use of this procedure in the specific matters.

Such ordinances shall be issued in the Council of Ministers after receiving the opinion of the relevant decision-making assemblies and the Council of State. They shall enter into force upon publication. They shall lapse if they are not ratified by Parliament within eighteen months following their publication.

Article 75

Citizens of the Republic who do not have ordinary civil status, the only one referred to in Article 34, shall retain their personal status so long as they have not renounced it.

Article 72

The territorial units of the Republic shall be the communes, the departments and the overseas territories. Any other territorial unit shall be established by statute.

These units shall be self-governing through elected councils and in the manner provided by statute.

In the departments and the territories, the delegate of the Government shall be responsible for national interests, administrative supervision and the observance of the law.

Article 73

Measures may be taken to adapt the legislative system and administrative organization of the overseas departments to their particular situation.

Article 74

The overseas territories of the Republic shall have a particular form of organization which takes account of their own interests with due regard for the general interest of the Republic.

The bodies of rules governing the overseas territories shall be established by institutional Acts that define, inter alia, the jurisdiction of their own institutions ; they shall be amended in accordance with the same procedure after consultation with the territorial assembly concerned.

Other provisions concerning their particular form of organization shall be defined and amended by statute after consultation with the territorial assembly concerned.

Article 75

Citizens of the Republic who do not have ordinary civil status, the only one referred to in article 34, shall retain their personal status so long as they have not renounced it.

Article 76 (Repealed)

TITLE XIII - TRANSITIONAL PROVISIONS RELATING TO NEW CALEDONIA

Article 76

The population of New Caledonia is called upon to vote by 31 December 1998 on the provisions of the agreement signed at Nouméa on 5 May 1998, which was published in the *Journal officiel* of the French Republic on 27 May 1998.

Persons satisfying the requirements laid down in article 2 of Act No. 88-1028 of 9 November 1988 shall be eligible to take part in the vote.

The measures required to organize the ballot shall be taken by decree adopted after consultation with the *Conseil d'Etat* and discussion in the Council of Ministers.

Article 77

After approval of the agreement by the vote provided for in article 76, the institutional Act passed after consultation with the deliberative assembly of New Caledonia shall determine, in order to ensure the development of New Caledonia in accordance with the guidelines set out in that agreement and as required for its implementation :

- the powers of the State which are to be transferred definitively to the institutions of New Caledonia, at what time and in what manner such transfers are to be made, and how the costs incurred thereby are to be apportioned;
- the rules for the organization and operation of the institutions of New Caledonia, notably the circumstances in which certain kinds of instrument passed by the deliberative assembly may be referred to the Constitutional Council for review before publication;
- the rules concerning citizenship, the electoral system, employment, and personal status as laid down by customary law;
- the circumstances and the time limits within which the population concerned in New Caledonia is to vote on the attainment of full sovereignty.

Any other measures required to give effect to the agreement referred to in article 76 shall be determined by statute.

Articles 78 to 87

(Repealed)

TITLE XIV - ON ASSOCIATION AGREEMENTS

Article 88

The Republic may conclude agreements with States that wish to associate themselves with it in order to develop their civilizations.

TITLE XV - ON THE EUROPEAN COMMUNITIES AND THE EUROPEAN UNION

Article 88-1

The Republic shall participate in the European Communities and in the European Union constituted by States that have freely chosen, by virtue of the treaties that established them, to exercise some of their powers in common.

Article 88-2

Subject to reciprocity and in accordance with the terms of the Treaty on European Union signed on 7 February 1992, France agrees to the transfer of powers necessary for the establishment of European economic and monetary union.

Subject to the same reservation and in accordance with the terms of the Treaty establishing the European Community, as amended by the Treaty signed on 2 October 1997, the transfer of powers necessary for the determination of rules concerning freedom of movement for persons and related areas may be agreed.

Statutes shall determine the rules relating to the European arrest warrant pursuant to acts adopted under the Treaty on European Union.

Article 88-3

Subject to reciprocity and in accordance with the terms of the Treaty on European Union signed on 7 February 1992, the right to vote and stand as a candidate in municipal elections shall be granted only to citizens of the Union residing in France. Such citizens shall neither exercise the office of mayor or deputy mayor nor participate in the designation of Senate electors or in the election of senators. An institutional Act passed in identical terms by the two assemblies shall determine the manner of implementation of this article.

Article 88-4

The Government shall lay before the National Assembly and the Senate any drafts of or proposals for acts of the European Communities or the European Union containing provisions which are matters for statute as soon as they have been transmitted to the Council of the European Union. It may also lay before them other drafts of or proposals for acts or any document issuing from a European Union institution.

In the manner laid down by the rules of procedure of each assembly, resolutions may be passed, even if Parliament is not in session, on the drafts, proposals or documents referred to in the preceding paragraph.

TITLE XVI - ON THE AMENDMENT OF THE CONSTITUTION

Article 89

The President of the Republic, on a proposal by the Prime Minister, and Members of Parliament alike shall have the right to initiate amendment of the Constitution.

A government or a Member's bill to amend the Constitution shall be passed by the two assemblies in identical terms. The amendment shall have effect after approval by referendum.

However, a government bill to amend the Constitution shall not be submitted to referendum where the President of the Republic decides to submit it to Parliament convened in Congress ; the government bill to amend the Constitution shall then be approved only if it is adopted by a three-fifths majority of the votes cast. The Bureau of the Congress shall be that of the National Assembly.

No amendment procedure shall be commenced or continued where the integrity of the territory is jeopardized.

The republican form of government shall not be the object of an amendment.

TITLE XVII - (Repealed)