

CONSTITUTION
of the
FEDERAL ISLAMIC REPUBLIC OF THE COMOROS

October 30, 1996

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PREAMBLE

The Comorian people solemnly proclaim their aspiration to draw from Islam, the permanent inspiration of the principles and laws that shall govern the State and its institutions.

They affirm their commitment to principles defined by the Charter of the United Nations, by that of the Organization of African Unity, of the Organization of the Islamic Conference and by the pact of the League of the Arab States.

Inspired by the Universal Declaration of the Rights of Man of the United Nations and of the Africa Charter of the Rights of Man and of Peoples, they proclaim and guarantee:

the equality of all citizens concerning rights and duties without regard to sex, origin, race, religion, creed or ideological conviction;

the freedom and security of each individual, under the sole condition that he does not commit any act likely to harm others;

freedom of movement and of residence subject to legislative prescriptions;

freedom of expression and of assembly, freedom of association and to organize trade unions with respect of the laws of the Republic;

the right to strike within the framework of the laws which regulate it;

the right of each child to an education and to instruction by the State and by the parents and the teachers chosen by the latter, as well as the right of the child to protection, particularly that specified by international conventions regularly ratified.

the right of the youth to be protected by the State and the collectivities against moral abandonment, against all form of exploitation and all form of delinquency;

the right of all Comorans to health, to work and to decent housing;

the inviolability of the home and of correspondence, except under conditions prescribed by the laws of the Republic with respect to dignity and intimacy;

the inviolability of property, except [in the case of] proved public necessity according to the law and only under condition of a just and previous indemnity;

freedom of enterprise;

security of capital and investments as well as the free circulation of this capital;

the equality of all citizens before justice and the right of all subject to jurisdiction to a defense;

the independence of magistrates;

the freedom of thought and of opinion, of press and publication, of creation and literary artistic and scientific production;

the right to protection of the family, it being the basis of the society.

This Preamble shall be considered an integral part of the Constitution.

TITLE ONE

GENERAL PROVISIONS

Article 1

The Comoros archipelago constitutes an Federal Islamic Republic.

Each one of its main islands, Maoré (Mayotte), Ndzouani (Anjouan), Mwali (Mohéli) and Ngazidja (Grande-Comore) is an autonomous territorial entity.

With respect to the Unity of the Republic, these islands administer freely, by the intermediary of their elected representatives, those matters that are constitutionally attributed to them.

However, the State guarantees effectively the national solidarity and cohesion, seeing to the establishment of a political, economic and social equilibrium [that is] adequate and equitable between all the islands composing the Comorian territory, taking into account the specific nature [*spécificités*] of each one of them.

Article 2

The national emblem is the green flag, broken at the center by a crescent and four white stars with at the top the name of Allah and at the bottom the name of Muhamad, his Prophet. The other characteristics of the flag are determined by law.

The national hymn is “UDZIMA WA MASIWA.”

The motto of the Republic is “Unity-Justice-Progress.”

The official languages are Comorian, the national language, French, and Arabic.

Article 3

With respect to the particularities of each island, the equality of all citizens is assured before the law without distinction to origin, race, religion or belief.

Article 4

Sovereignty belongs to the people who exercise it, in each island and in the whole of the Republic, by their elected representatives or by the means [*voie*] of referendum. No group nor individual may arrogate [*attribuer*] its exercise.

Under conditions specified by the law suffrage is universal, equal and secret. It may be direct or indirect.

According to conditions determined by the law, all Comorians of both sexes who are at least eighteen years of age and enjoying their full civil and political rights are electors.

Comorian nationality may be acquired, kept and lost according to the law. No one, who is Comorian by birth, may be deprived of his nationality.

The State may negotiate treaties of double nationality with countries enjoying special ties with the Comoros.

Comorians who have acquired nationality of those countries do not lose their nationality of origin.

Article 5

Parties and political groups concur in the expression of suffrage. They form themselves and exercise their activities freely with respect to the national sovereignty, democracy and territorial integrity.

However, parties or political groups will be dissolved by right which have not obtained in the Federal Assembly, in the first legislative election that follows the adoption of the present Constitution, a representation of at least two deputies per island, unless these parties or political groups merge with other groups that are validly represented within the said Assembly.

In case one party or political group is the only one validly represented in the Federal Assembly, the party or political group which, by the number of votes obtained, comes in second position, continues to exercise its activity freely.

In any case, only those parties or political groups which exercise their activity over the whole Republic may participate in national elections according to conditions determined by law. Their internal structures and their functioning must be democratic.

TITLE II EXECUTIVE POWER

Chapter I The President of the Republic

Article 6

The President of the Republic is the Chief of State. He sees to the respect of the Constitution.

He assures, through his arbitration, the regular functioning of the public powers and the continuity of the State. He is the guarantor of national independence, of the unity of the Republic, the autonomy of the Islands, the territorial integrity and of the respect of international agreements.

He assures the supreme representation of the State in international relations.

Article 7

The President of the Republic is elected by direct universal suffrage for a six-year term.

Candidates for the presidency must be at least forty years of age and not more than seventy-five years by December 31 of the year preceding the vote.

They must have resided on the national territory continuously for at least twelve months prior to the deposit of the candidacies, except in case of force majeure ascertained by the High Council of the Republic, and be of Comorian nationality by birth.

The electoral law determines the other conditions of eligibility of the President of the Republic.

Article 8

The ballot is uninominal. The President of the Republic is elected by absolute majority of votes cast. If this is not attained at the first round of voting, a second round follows after a period of fifteen days, presenting the two candidates who obtained the most votes during the first round, if it be the case that other more favored candidates have withdrawn.

The first round of voting for President of the Republic takes place at least thirty days and no later than sixty days before the date of expiration of the powers of the current President.

The new President takes office the day after the expiration of the mandate of his predecessor.

If, before the first round of voting, one of the candidates dies or finds himself definitively incapacitated, the High Council of the Republic may declare a postponement of the election.

In case of the death or definitive incapacity of one of the two candidates remaining in the race for the second round, the High Council of the Republic declares that there must be a whole new electoral operation.

The High Council of the Republic may extend the time period provided in paragraph 2 of this article without the voting taking place more than three months after the date of the decision of the High Council of the Republic.

If the application of the provisions of the preceding paragraph have the effect to postpone the election to a date following the expiration of the powers of the current President of the Republic, the latter will stay in function until his successor takes office.

Before taking office, the President of the Republic takes an oath before the High Council of the Republic, in these words and the Comorian language: ' NGAM RENGO ANHADI USONI MWA MGOUNO WANADAMU UKA NGAMDJO TEKELEZA ZE WADJIBU ZA HE ZE DHWAMANA ZA HANGU HAWU AMINIFU NA WU ANDILIFU HEZE FAYI DA DJIMLAZAHE YENTSI NA WUSTEHI YE SHARIYA MSHINDDJL.

In addition, he is obligated to sign and forward to the High Council of the Republic a detailed declaration of his assets.

This declaration is published in the Official Journal.

The office of the President of the Republic is incompatible with the exercise of any other elected mandate, with any other public employment, with any other public or private professional activity, and with any function within the directive organ of a party or political group.

Article 9

In the case of his absence or temporary incapacity, the President of the Republic is substituted by the Prime Minister. If the Prime Minister is himself also absent or incapacitated, the President of the Republic is substituted by the Minister that he has designated.

No act [*acte de nature*] to modify the Constitution or the fundamental options of the Republic may be taken during this period. During this same period, no ministerial reorganization of the Government, no dissolution of the Federal Assembly, or of any other deliberative and jurisdictional instance may intervene.

Article 10

In the case of vacancy of the Presidency of the Republic or the definitive incapacity of the President of the Republic ascertained by the High Council of the Republic seized by the Government deciding [*statuer*] by a majority of its members, the functions of the President of the Republic shall be provisionally exercised by the President of the High Council of the Republic. If the latter is himself incapacitated, by the senior member of the High Council of the Republic.

The ballot for the election of the new President of the Republic takes place, except in the case of force majeure established by the High Council of the Republic, thirty days at least and ninety days at most after the beginning of the vacancy or the definitive declaration of incapacity.

The interim President may neither pronounce the dissolution of the Federal Assembly, nor of any other deliberative instance and any act to modify the Constitution cannot be taken until the entry into office of the new President. During the same period, any ministerial reorganization or change of Government may not intervene.

The President of the interim may not submit [his] candidature to the election of the new President of the Republic.

Article 11

The President of the Republic appoints the Prime Minister. He terminates his functions.

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

Article 12

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

He may summon [*appeler*] the Governors of the islands to participate [*siéger*] without deliberative voice.

In exceptional cases, the Prime Minister substitutes the President of the Republic at the presidency of a Council of Ministers under an express delegation and for a specific agenda.

Article 13

The President of the Republic promulgates the laws within the month after their transmission to the Government by the President of the Federal Assembly. He has the right to demand of the Federal Assembly a new deliberation of any law or of certain of its provisions before this time period expires. This new deliberation cannot be refused.

If a law has not been promulgated within the period of time specified in the preceding paragraph, it shall acquire executory force. It is published in the Official Journal at the initiative of the President of the Federal Assembly.

Article 14

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

He convokes the electoral colleges for the elections and the referendums under the conditions defined by this Constitution and the electoral law.

Article 15

The President of the Republic may, on his initiative or, during a Parliamentary session, upon proposal of the Federal Assembly, submit to referendum any bill of law concerning the organization of the public powers or, leading to authorize the ratification of a treaty or international agreement which, without contradicting the Constitution, would have effects *[incidences]* on the functioning of the institutions.

The referendum law enters into force on the publication of the results of the ballot by the High Council of the Republic.

Article 16

The President of the Republic assures the execution of the laws. He disposes of the regulatory power for the exercise of the competences reserved to him by the Constitution.

He is Supreme Chief of the armed forces. He appoints to civilian and military offices *[emplois]*.

The Magistrates, Ambassadors and Special Envoys, Superior Officers, State Inspectors, Rectors and General Inspectors of National Education, the secretaries-general of the Presidency of the Republic and of the Government, the Governor of the Central Bank, and the General Treasurer *[Trésorier Payeur Général]*, are appointed by decree taken in the Council of Ministers.

An organic law determines the other offices left to the power of appointment of the President of the Republic.

Article 17

The President of the Republic determines and conducts the foreign policy of the Republic. He accredits the ambassadors and the special envoys to foreign powers; the foreign ambassadors and special envoys are accredited to him.

Article 18

The President of the Republic negotiates and ratifies treaties. Peace treaties, treaties of commerce, treaties or agreements related to international organizations, those that engage the State Finances, those concerning the domain that the Constitution reserves to the law, those which are relative to the state of persons, may only be ratified or approved by virtue of a law.

The Federal Assembly is immediately informed of the conclusion of the other treaties and international agreements. Upon their publication, treaties and agreements that are regularly ratified or approved shall become part of the internal juridical order and have an authority superior to that of the law under reserve that each Agreement or Treaty is applied by the other party.

Article 19

After written consultation with the Prime Minister and the presidents of the Federal Assembly and the High Council of the Republic, the President of the Republic can pronounce the dissolution of the Federal Assembly.

Except in case of force majeure ascertained by the High Council of the Republic, new elections take place at least thirty days and no later than ninety days after the dissolution.

The Federal Assembly meets by right on the second Thursday following its election. If this meeting takes place outside the time period provided for ordinary sessions, a session is opened by right for a period of fifteen days.

A new dissolution may not intervene within twelve months following these elections.

Article 20

When the constitutional institutions, the independence of the Nation, territorial integrity, or the execution of international agreements, are threatened in a grave and immediate manner, or when the regular functioning of the constitutional institutions is interrupted, the President of the Republic, following written consultation with the Prime Minister, the presidents of the Federal Assembly and the High Council of the Republic, takes by decisions, the exceptional measures required by the circumstances.

Such measures shall be inspired by the wish to assure that the constitutional institutions have the means to fulfill their mission, in the shortest possible time. The President informs the Nation by a message.

The Federal Assembly convenes by right. The Federal Assembly cannot be dissolved during the exercise of the exceptional powers. It terminates the exceptional powers by a vote of a majority of two-thirds of the members which compose it.

Article 21

The President of the Republic confers the decorations of the Republic.

He has the right of pardon.

Article 22

The President of the Republic communicates with the Federal Assembly by means of messages that do not give rise to a debate.

Article 23

Under reserve of the case specified in articles 11, 16, 19 and 20, the acts of the President of the Republic are countersigned by the Prime Minister and by the Ministers charged with their execution.

Article 24

The President of the Republic is penally responsible in case of treason or crime committed in the exercise or resulting from the exercise of his functions.

However, the decision to prosecute, [and] the proposal to charge the President of the Republic, taken at the initiative of half the deputies, are voted by a majority of two-thirds of the members of the Federal Assembly, according to the procedure provided by the internal regulations of the said Assembly. Nonetheless, the charge may intervene only three days after the decision to prosecute has been taken.

The charge is notified, within no more than eight days to the Procurator General of [*près*] the High Council of the Republic sitting in the capacity of a High Court of Justice.

This function is assured, should the occasion arise, by the Procurator General of the highest judicial jurisdiction.

The High Council of the Republic, sitting as the High Court of Justice rules on the culpability of the President of the Republic.

If the accused is found culpable, he is dismissed from his functions, without prejudice to the punishments of law incurred.

If the culpability of the accused is not established, the Federal Assembly is dissolved by right. New elections take place according to conditions and in the time frame provided by article 19 paragraph 2, above.

CHAPTER II

The Government of the Republic

Article 25

Under the authority of the President of the Republic, the Government determines and conducts the internal policy of the Nation.

The Government is responsible before the Federal Assembly, according to the conditions and following the procedures provided in the following article 28.

It disposes the Federal administration and the armed force.

Article 26

The Prime Minister directs the action of the Government. He assures the execution of the laws. Under reserve of the provisions of article 16, he exercises the regulatory power and appoints to civil and military offices.

Article 27

The acts of the Prime Minister are countersigned by the other members of the Government charged with their execution.

The functions of a member of the Government are incompatible with the exercise of the mandate of Deputy of the Federal Assembly, Counselor of the Island and of Governor, with any other public or private professional activity, and any directive function in a trade union.

The law determines the statute, the other incompatibilities, if need arises, and the indemnities of the members of the Government.

Article 28

Members of the Government may be collectively removed from office if the Federal Assembly questions their responsibility by the adoption of a motion of censure deposited by at least one-fourth of the deputies and voted by an absolute majority of the members who comprise the Assembly.

The vote is by public ballot. It cannot take place before three days following the deposit of this motion.

If the motion of censure is not adopted, the signatories may not present another during the same session, except in the case provided in the following article 29.

Article 29

After deliberation in the Council of Ministers, the Prime Minister may commit the responsibility of the Government before the Federal Assembly on the vote of a text. In this case, the text shall be considered adopted unless a motion of censure is deposited within the twenty-four hours which follow a vote according to provisions defined in article 28. In the case or [if] those conditions cannot be satisfied before the closing of the session of the Federal Assembly, this [session] is automatically prolonged by a maximum of six days to permit the discussion and the vote of the motion of censure.

Article 30

The members of the Government are penally responsible for the crimes and misdemeanors committed in the exercise or as a result of the exercise of their functions.

Prosecutions are initiated before the jurisdictions of common law. Indictment carries the dismissal of the person in question.

TITLE III LEGISLATIVE POWER

Article 31

The legislative power is exercised by the Federal Assembly which represents the Comorian People.

Article 32

The deputies of the Federal Assembly are elected for five years by direct suffrage.

The elections take place between the thirtieth and the ninetieth day following the expiration of the mandate of the Deputies. The elected Assembly is convoked on the second Thursday following its election.

The electoral law determines the conditions and terms of the election of the deputies as well as the regime of ineligibilities and incompatibilities. It determines also the number of members of the Federal Assembly, which cannot be smaller than five per island. In addition, it specifies the conditions according to which are elected, the persons called to assure, in case of the vacancy of a seat the replacement of the deputies, until the general or partial renewal of the Assembly.

The indemnity of the deputies is determined by law.

Article 33

While a session is in progress, no deputy may be prosecuted, searched, arrested, detained or judged without the authorization of the Federal Assembly, except in the case of flagrant offence or crime.

No deputy shall be prosecuted, searched, arrested, detained or judged because of his opinions or votes expressed in the exercise of his functions.

Article 34

The Federal Assembly adopts, by a majority of two-thirds of its members, its own internal regulations which determine, among other things, the composition of its bureau and the modalities of its elections.

The High Council of the Republic rules [*prononcer*], before these internal regulations take effect, on their conformity to the constitution.

The deputies elect the President of the Assembly at the beginning of the legislature and for its duration.

Article 35

The Federal Assembly convenes, by right, each year in two ordinary sessions.

The first session starts the first Thursday of October and ends the last Thursday of December. The second session opens the last Thursday of April. Its duration cannot exceed three months.

The Federal Assembly can be convened in extraordinary session for a specific agenda, either at the initiative of the Government or at the demand of the majority of the members which compose it. Cloture intervenes as soon as the agenda is completed [*épuiser*], and at most fifteen days counting from its convention.

The extraordinary session is opened or closed by decree of the President of the Republic.

Article 36

To be valid, the deliberations of the Federal Assembly must be approved by the majority of those members present, without prejudice to the qualified majorities provided by the Constitution and the organic laws as well as by the internal regulations.

The right of vote of the deputies is personal. The internal regulations may exceptionally authorize the delegation of the vote. In this case, no one may receive delegation of more than one mandate.

Any imperative mandate is null. The plenary meetings of the Federal Assembly are public.

Article 37

The initiative of laws and the right of amendment belong concurrently to the Government and the Federal Assembly.

Bills of law are deliberated in the Council of Ministers. Proposals of law and amendment by the Deputies are not receivable when their adoption would cause a diminution of public resources, either by way of creating or increasing a public expense.

If a proposal or an amendment does not appear to be within the domain of the law or cannot be received because of the preceding provision, the Government has the authority to oppose the receivability. In case of disagreement with the Federal Assembly, the High Council of the Republic at the demand of one or the other, rules within eight days.

In case all the deputies of an island should contest a legislative provision within fifteen days of its adoption, this provision shall be the object of a new reading. If after this new reading, the Federal Assembly adopts it without having received the votes [*voix*] of the deputies of the island concerned, the President of the Republic may refuse to promulgate it. In this case, and by derogation of the provisions of paragraph 2 of article 13 of the present Constitution, the legislative provision being contested may not be published or put into effect.

Article 38

Upon the demand of the Government or one-fourth of the members of the Federal Assembly, bills and proposals of law are sent to the committees expressly designated for this purpose.

Bills and propositions of law for which such an initiative has not been taken, are sent to one of the permanent committees whose number is determined by the internal regulations of the Federal Assembly.

Article 39

Matters which are not attributed to the islands by the Constitution, pertain [*relèvent*] to the competence of the State.

The law is voted by the Federal Assembly.

The following matters are of the domain of the law:

- the constitutional institutions;
- the modalities of the elections of the President of the Republic and of the deputies;
- the institution and the organization of the jurisdictions and the procedure followed before them;
- the national defense;
- the general regime of communications; the postal [regime] and telecommunications;
- foreign transport and [transport] between the islands;
- the creation and dissolution of public establishments, of State enterprises and mixed enterprises in which the State participates;
- the general statute of the magistrates, of the military [officers] and of the civil servants;
- nationality, the state and the capacity of persons, immigration, emigration, the right of asylum;
- citizenship, the civic rights, the protection and fundamental guarantees granted to citizens for the exercise of public liberties, the constraints imposed in the interest of public safety on the citizens, on their person or on their property;
- the regulations of the use of information [*informatique*] in order to guarantee the rights of the individual and the full exercise of the rights of the citizens;
- the civil law and the civil procedure;
- the crimes and misdemeanors, the penal procedure, the penitentiary regime and amnesty;
- the monetary system, the general principles of the organization of credit, of bank[s] and of insurance;
- the public finances, the debt and the treasury;

- the commercial law and the regulations applicable to foreign commerce;
- the right to work, the syndical right and the right to strike;
- the intellectual and artistic property;
- the tax base, rate of interest and modalities of collecting taxes receivable throughout the Republic;
- the other resources of the State;
- the programs and multi-year projects of economic cultural and social development;
- the accounts of the State and of the public collectivities;
- the investments for the common interest;
- the fundamental principles concerning expropriations and nationalizations in the interest of the State or of the public collectivities;
- the national patrimony and the protection of the environment;
- the fundamental principles of the organization of education and the institution of degrees; the fundamental principles of the organization of the policy of youth and of sports;
- the fundamental principles of the organization of public health; the legislation on pharmaceutical products;
- the fundamental principles of the organization of the information;
- the fundamental principles of the organization of the central administration;
- the matters expressly devolving to the law by other articles of the Constitution;

The matters other than those enumerated above and under reserve of the provisions of article 65 fall within the autonomous regulatory domain.

Article 40

The laws of finance determine the resources and expenses of the State according to conditions and with the reservations provided by an organic law.

If the law of finance has not been voted before January 1st of the current year, at the latest, the President of the Republic, one month after the presentation of the bill, is authorized to collect taxes and open by decree, in the Council of Ministers, provisional credits for three months, on the basis of the actual revenues and expenses of the preceding year.

Article 41

The laws on which the Constitution confers the organic character are those concerning the organization and functioning of the public powers, the fundamental rights and public liberties, the general electoral regime and all those specified in the Constitution.

The organic laws are voted and modified according to the following conditions:

the bill or proposal is not submitted to the deliberation and to the vote of the Federal Assembly until the end of a time limit of fifteen days following its presentation;

their adoption, modification or abrogation requires a majority of two-thirds of the members composing the Federal Assembly, in a final vote on the whole of the text.

The procedure specified in article 29 is not applicable to organic laws.

Organic laws may be promulgated only after the High Council of the Republic declares them in conformity with the Constitution.

Article 42

The Government may, in order to execute its program, demand of the Federal Assembly authorization to take, by ordinances, for a limited period of time, measures that are normally of the domain of the law, except for matters concerning fundamental rights and public liberties.

This legislative delegation is conferred through a law of habilitation.

The ordinances are taken in the Council of Ministers following the advice of the High Council of the Republic. They come into effect upon their publication in the Official Journal, but become lapsed if the bill of law of ratification is not presented to the Federal Assembly before the date determined by the law of habilitation.

At the expiration of the time period mentioned in the first paragraph, the ordinances may be modified by law only. During that time, the Government may oppose the receivability of any proposal or amendment whose provisions concern those matters for which the habilitation has been given.

Article 43

The agenda of the Federal Assembly includes, by priority and in the order determined by the Government, a discussion of the bills of laws presented by the Government and of the proposals of law accepted by it.

Article 44

The Federal Assembly and its commissions by the intermediary of their respective presidents, may at their demand, obtain from the Government, its departments and all the authorities of the State, the information they require [*souhaiter*].

The Federal Assembly and its commissions may require [*exiger*] the presence of a member of the Government. The members of the Government have access to the sittings of the Federal

Assembly and of its commissions and will be heard when they demand it. They may be accompanied by technicians to assist them.

The members of the Government will equally be heard upon demand of the deputies, either in commissions or in plenary.

Article 45

The state of urgency is proclaimed by a decree taken in the Council of Ministers. This decree specifies [*précise*] the extent of the territory to which it will be applicable. Its prolongation beyond fifteen days may only be authorized by the Federal Assembly.

The state of siege or the state of war is proclaimed by the Federal Assembly by the majority of two-thirds of its members, upon demand of the Government.

The Federal Assembly determines its extent in time and in space, as well as the conditions of its application.

The Federal Assembly meets by right and may not be dissolved as long as one of the states specified in this article remains in force.

In the case of the impossibility to convene the Federal Assembly according to provisions of the preceding paragraphs, article 20 of the present Constitution applies.

TITLE IV JUDICIAL POWER

Article 46

The judicial power is independent of the executive power and of the legislative power.

Justice is rendered throughout the whole territory in the name of ALLAH.

Article 47

The President of the Republic is the guarantor of the independence of justice. He is assisted by the Superior Council of the Magistrature of which the organization and functioning are determined by the organic law concerning the statute of the magistrates.

The Superior Council of the Magistrature is presided [over] by the President of the Republic. The Minister of Justice is its Vice-President.

Article 48

The organization, the competences and the functioning of the jurisdictions are established by an organic law which puts into effect, among other things, the following principles:

- the singular nature [*unicité*] of justice;
- the sitting magistrates are irremovable;

- the hearings of the jurisdictions are public, except in limited cases enumerated by the law;
- no one may be arrested or detained arbitrarily;
- anyone accused is presumed innocent until proven guilty following a procedure which offered guarantees essential for his defense;
- no one may be prosecuted, searched, arrested, detained or judged according to a law retroactive [*posterieur*] to the act committed;
- any penal jurisdiction of exception is prohibited;
- there are two levels of jurisdiction.

The judicial power, guardian of the individual freedom assures the respect of these principles.

TITLE V THE HIGH COUNCIL OF THE REPUBLIC

Article 49

The High Council of the Republic sits in constitutional matters, in matters of control of the accounts, in the capacity [*qualité*] as the High Court of Justice.

It is composed:

- of four members appointed by the President of the Republic;
- of three members elected by the Federal Assembly upon presentation by the President of the Federal Assembly
- of one member elected by the council of each island, upon presentation by the president of the council of the island.

The members of the High Council of the Republic are chosen by reason of their honorability, their juridical, administrative, financial and economic expertise [*compétence*], from among the magistrates, lawyers, university professors having at least ten years of professional experience, as well as from among the high functionaries having at least fifteen years of professional experience and from among qualified persons [*personnalités compétentes*].

They are appointed for a seven year renewable mandate.

In case of vacancy or definitive incapacity of a member ascertained by the High Council of the Republic itself, the authority of the nomination or of the election proceeds with his or her replacement within a time period of a month.

Article 50

The capacity [*qualité*] of member of the High Council of the Republic is incompatible with any other elected mandate, any political function [*charge*], any private professional activity.

The members of the High Council of the Republic are, moreover, subject to all the particular *[propres]* incompatibilities of the magistrates of the courts and tribunals.

Article 51

The President of the High Council of the Republic is elected by his peers, for the duration of the mandate as specified in paragraph 4 of article 48 above.

Article 52

The High Council of the Republic sees to the regularity of the election of the President of the Republic and of the Deputies to the Federal Assembly. Within conditions specified by law, it examines the complaints *[réclamations]* and proclaims the results.

It sees to the regularity of the operations of the referendum and proclaims the results.

Article 53

The High Council of the Republic, seized by the President of the Republic, the President of the Federal Assembly, the Prime Minister, the governors of the islands, the presidents of the councils of the islands, a third of the deputies of the Federal Assembly or the absolute majority of the council of an island, decides *[statuer]* in case of disagreement, on the constitutionality of the laws, the ordinances, treaties or international agreements and any normative provision having the force of a law.

The High Council of the Republic is seized, in this case, either before the promulgation of the laws or contested provisions, or within a time limit of one month following this promulgation.

It decides within the time limit of a month. However, upon the demand of the President of the Republic, if there is urgency, this time limit may be reduced to eight days.

In case of the seizing of the High Council of the Republic, the law or the contested provisions may neither be promulgated nor published, as long as the High Council has not decided.

A provision that has been declared unconstitutional, may neither be promulgated and published, nor put into effect. The decisions of the High Council of the Republic are not susceptible to any recourse.

Article 54

The High Council of the Republic sits equally in the capacity of an organ of control of the accounts and of the economic management of the State, the collectivities and the public establishments.

The High Council of the Republic remits to the President of the Republic, the Government and the Federal Assembly, an annual report in which are listed the committed infractions and indicates the possible *[éventuelle]* responsibilities.

This report is made public through the diligence of the Federal Assembly.

Article 55

The High Council of the Republic, seized by the Government, gives its opinion about the constitutionality of bills of law, ordinances as well as the proposals of law submitted to it.

The High Council of the Republic may, at its own initiative, in the form of recommendations, direct [*attirer*] the attention of the Federal Assembly and of the Government to those reforms of an economic or social order that appear to it as conforming [to] or contrary to the general interest or to the interest of one particular island.

The High Council of the Republic, sitting in the capacity of the High Court of Justice, is seized according to the provisions of article 24 above.

Article 56

An organic law specifies the rules of the organization and of the functioning of the High Council of the Republic, the statute of its members, as well as the procedure to be followed before it.

TITLE VI COUNCIL OF ULEMAS

Article 57

The Council of Ulemas gives its opinion about the bills of law, ordinances or decrees as well as about the proposals of laws submitted to it.

The President of the Republic, the Prime Minister, the President of the Federal Assembly, the presidents of the councils of the islands or the governors of the islands may consult the Council of the Ulemas about any problem of religious nature.

The Council of the Ulemas may, at its own initiative, in the form of recommendations, direct the attention of the Federal Assembly, the Government and the governors to reforms that appear to it as conforming [to] or contrary to the principles of Islam.

At the demand of the Government, the Council of the Ulemas designates one of its members to present [*exposer*] before the commissions of the Federal Assembly, the opinion of the Council about the bills or the proposals of law submitted to it.

Article 58

The organization and the functioning of the Council of the Ulemas, as well as the statute of its members is specified by a law.

TITLE VII INSTITUTIONS OF THE ISLANDS

Article 59

With respect to the unity of the Republic, each island forms an autonomous territorial entity which administers itself freely and of which the organs are the governor and the council of the island.

The State guarantees the autonomy of the islands; it gives [*réaliser*] to each of them the greatest administrative decentralization of the services which depend on them.

The commune is the basic territorial collectivity. The law establishes the list as well as the conditions and modalities of the election of the municipal councils.

Any other category of public collectivity is created by the law. These collectivities administer themselves freely by elected councils and according to conditions provided by law.

No authority may adopt measures which, directly or indirectly, would obstruct the freedom of circulation or settlement of persons and the free circulation of goods throughout the national territory.

CHAPTER I THE GOVERNOR OF THE ISLAND

Article 60

Each island is placed under the authority of a Governor chosen and appointed by the President of the Republic from among three persons [*personalités*] proposed by the Council of the Island deliberating with the majority of its members.

The Governor is responsible before the President of the Republic and the Council of the Island.

The President of the Republic terminates the functions of the Governor.

He equally terminates the functions of the Governor, if the Council of the Island questions his responsibility by adopting a motion of no-confidence presented by one-fourth of the members of the Council of the Island and voted by the majority of the members composing said Council.

In case of the vacancy of the office of Governor or of definitive incapacity ascertained by the High Council of the Republic, seized by the President of the Republic and ascertained by the majority of its members, the functions of governor are provisionally exercised by the President of the Council of the Island.

In any case, his replacement is provided for, in the form specified in paragraph 1 of the present article.

The appointment of the new Governor takes place, except in case of force majeure ascertained by the High Council of the Republic seized by the President of the Republic at least twenty days and no later than forty days after the vacancy begins or upon the declaration of the definitive character of the incapacity.

The office of Governor is incompatible with the exercise of any other elected mandate, any public service and all other public or private professional activity.

Article 61

The Governor assures the execution of the law in the island. He assures the regulatory power in matters reserved to the competence of the island by the Constitution. He manages the administration of the island, he disposes of the police and may demand from the President of the Republic the intervention of the armed force.

Subject to the statutory provisions applying to the magistrates and to the functionaries, he appoints the civil employees of the island.

He assures the guardianship [*tutelle*] of the territorial collectivities of the island.

He is equally the representative of the State in the island.

Article 62

The President of the Republic, upon determination [*proposition motivée*] of the Governor of the island and following the advice of the High Council of the Republic, can declare the dissolution of a municipal council.

CHAPTER II THE COUNCIL OF THE ISLAND

Article 63

The Council of the Island is composed of the mayors of the communes or groups of communes according to conditions determined by law.

The functions of counselor are without compensation [*gratuites*]. However, the counselors may receive, for each session, an indemnity whose amount is specified each year by the budget of the island.

Article 64

The Council of the Island convenes in March and December on the convocation the governor. The governor may also convene it in extraordinary session. It convenes obligatorily at the demand of the President of the Republic or the majority of its members, on a specific agenda. The duration of the session may not exceed fifteen days.

The Council of the Island elects its president and its bureau. It votes its internal regulations.

Article 65

The Council of the Island administers [*règle*] through its deliberations the matters attributed to the competence of the island. It gives its opinion every time it is required by laws or regulations or [when] demanded by the Government.

The Council of the Island deliberates on the following matters:

- the budget of the island;
- the management of the public domain assigned to the island by the State;
- the determination of the revenues and tax rates, [its] own resources of the budget of the island, within the limit of the maximums specified by the law of finance of the State;
- the use of the subsidies granted to the island by the State;
- the acceptance of gifts and inheritances;
- the recourse to loans for the benefit of the island;
- public works of local interest;
- fairs and markets;
- museums, libraries of local interest;
- the protection of buildings and historical monuments of the island;
- the promotion of local culture, sports and leisure;
- the promotion of the crafts of the island;
- the management of communal health and hygiene;
- the management of primary education;
- the management of the environment.

The Council of the Island is obligatorily consulted about:

- the codification of customs;
- the preparation and application of multi-year programs of economic, cultural and social development chargeable to the federal budget;
- the concessions of the public domain of the State located in the island;
- the transfer of the private domain of the State located in the island.

The State may transfer or delegate to the islands, through an organic law, its competence in certain matters, which, by their nature, are susceptible to such transfer or to such delegation.

The organic law provides in each case, the corresponding financial means, as well as the procedure of control which the State reserves [to] itself.

Article 66

The Council determines through deliberations the resources and expenses of its budget. These resources comprise:

- a portion of the direct and indirect taxes collected throughout the whole Republic;
- the foreign resources attributable to the Republic without assignment to any island;
- the revenues and taxes, [which are the] own resources of the island.

The law of finance specifies which rate of the product of the taxes that will be attributed to the budget of the island.

The law determines the tax base, the rate and the methods of collecting all direct or indirect taxes, duties, and miscellaneous revenues to be collected throughout the whole territory of the Republic.

However, the island may create for the benefit of its own budget, taxes which are not specified by the law, without power, in any case, to effect [*opérer*] fiscal pre-payments [*prélèvements fiscaux*] which, by their nature, constitute an obstacle to the free circulation of merchandise and services within the national territory.

Foreign public resources may be accepted only by the State which determines their assignment. However, the island and the other territorial collectivities may accept financial help from foreign moral or physical persons after they have informed the Governor. The budget of an island cannot specify a deficit.

Article 67

The deliberations of the Council of the Island are declared enforceable by the Governor and are published in the Official Journal through his good offices. He also declares the budget of the island enforceable.

The President of the Republic, the Prime Minister, the Governor, the deputies and the counselors of the island or any one interested may bring a contestation about the legality of a deliberation of the Council of the Island before the Tribunal of First Instance deciding on administrative matters, within fifteen days of the publication of the contested deliberation.

TITLE VIII REVISION

Article 68

The initiative to revise the Constitution belongs to the President of the Republic. However, a third of the members of the Federal Assembly may bring a proposal to the President of the Republic.

The bill or motion must be voted by the Federal Assembly with a majority of two-thirds of its members.

Revision is definitive when it has been approved by referendum by a majority of votes throughout the Republic. The new Constitution takes effect upon proclamation of the results of the ballot by the High Council of the Republic.

However, the President of the Republic may decide to promulgate, without submission to referendum, the bill or proposal that has been adopted by the deputies and counselors of the islands convened in congress with a majority of two-thirds of the members which compose the congress.

No procedure of revision may be engaged which carries affects to the integrity of the Republic or to the rights of the person.

The republican and Islamic character of the State cannot be made the object of a revision.

TITLE IX TRANSITIONAL AND FINAL PROVISIONS

Article 69

The present draft of the Constitution, submitted to popular referendum, will be considered ratified, if it is approved by a majority of the votes cast throughout the whole of the Republic. The Constitution enters into force upon the publication of the results.

Article 70

The President of the Republic currently in office, completes his current mandate according to the Constitution of June 7, 1992. His duties will come to an end only upon proclamation of the results of the election specified by articles 7 and 8 of the present Constitution.

The legislative measures necessary to the establishment of the institutions and the functioning of the public powers, and until the installation of the Federal Assembly, will be taken in the Council of Ministers through ordinances having the force of law.

Article 71

The attributions devolving to the High Council of the Republic will be provisionally exercised by a constitutional commission of seven members appointed by the President of the Republic.

In any case, the purpose [*mission*] of this commission comes to an end on the day the Federal Assembly is installed.

Article 72

Until the institutions of the island are established and, by derogation of article 60 above, the governors will be appointed by decree of the President of the Republic, taken in the Council of Ministers.

In case of vacancy or incapacity, their replacement will be provided for, according to the same terms.

During that same transitory period, and until the establishment of local institutions, the deputies of each island will proceed with the election of one member of the High Council of the Republic whose appointment will be ratified by decree of the President of the Republic.

The institutions of the Island Maoré (Mayotte) will be established within a time period of no longer than twelve months, starting from the day when the exercise of the sovereignty of the Federal Islamic Republic of Comoros will be effective on this Comorian island.

Article 73

The present law will be executed as constitution of the Islamic Federal Republic of the Comoros.

Moroni, October 30, 1996

The President of the Republic

MOHAMED TAKI ABDOULKARIM