

THE CONSTITUTION OF THE REPUBLIC OF CAPE VERDE (1992)

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THE NATIONAL ASSEMBLY

Constitutional Law n. 01/IV/92

of 25 September

Relying on the mandate of the people, the People's National Assembly, pursuant to paragraph a) and b) of Article 58 of the Constitution, decrees the following:

Article 1

- 1. Articles 1 to 93 and article 96 of the Political Constitution of the Republic of Cape Verde, approved in the IX Legislative Session of I Legislature, in September 1980, are hereby revoked.**
- 2. The Law n.2/81, of 14 February, the Constitutional Law n.1/III/88, of 17 December and the Constitutional Law n.2/III/90, of 29 September are revoked.**

Article 2

The text of the Constitution of the Republic of Cape Verde, annexed to the present Law, of which it is an integral part, signed by the President of the National Assembly, is approved.

Article 3

The present Law shall come into force on the date of its publication.

Approved on 5 of August 1992

The President of the People's National Assembly, Amilcar Fernandes Spencer Lopes

Promulgated on 4 September 1992

To be published.

The President of the Republic, ANTONIO MANUEL MASCARENHAS GOMES MONTEIRO.

PREAMBLE

The proclamation of the National Independence stands as one of the highest moments in the History of the Capeverdean Nation. Factor of our identity and revitalization of our condition as a People subjected to the same vicissitudes of destiny, but sharing the deep hope for creating on these islands the conditions for a dignifying existence for all their children, the Independence created also the condition for Cape Verde to become a full fledged member of the international community.

Nonetheless, the affirmation of Cape Verde as an independent State did not coincide with The setting up of a regime of pluralist democracy, and instead the organization of political power obeyed the philosophy and principles which characterize one party rule regimes.

The exercise of power in the framework of such a model demonstrated, at the universal level, the necessity to introduce profound changes into the organization of the political and social life of States. New ideas spread out around the world bringing down structures and conceptions, which seemed to be entrenched, and changing completely the course of international political events. In Cape Verde, the political openness was announced in the year nineteen hundred ninety, leading to the creation of institutional conditions necessary for the first legislative and presidential elections, within a context of political competition.

Thus, on 28 September, the People's National Assembly approved the Constitutional Law n. 2/111/90 which, having revoked article 4 of the Constitution and institutionalized the pluralism principle, embodied a new type of political regime.

Conceived as an instrument to make the democratic elections viable and for the transition to a new model for the Nation's political and social organization, such Constitutional Law did not fail to institute, however, a different system of government and a different form of suffrage, in the wake of the elections for a new legislative assembly.

It was against this background that the first legislative elections were held in January 1991, followed by the presidential elections, in February. The impressive participation of the populations in these elections demonstrated, clearly, the Nation's choice for change of the political regime.

Nevertheless, the precise historical context in which the parties were recognized, through the mechanism of the Constitution revision, as the main instruments in the formation of the political will for the governance of the country, led to the

situation in which pluralist democracy had to go along with certain rules and principles that were characteristic of the former regime.

Notwithstanding the social and political reality in which the country found itself, a process of quick and deep changes was under way, as the populations and the emergent political forces embraced the values which characterize a Democratic State based on the rule of Law and which, by their content, had already shaped a "de facto" model that was not reflected on the text of the Constitution.

The present Constitutional Law is thus designed to equip the country with a normative framework, the value of which is based on the establishment of the new model and not particularly on the harmony imprinted to the text. The choice for a Constitution laying down the structuring principles of a pluralistic democracy, leaving out the conjunctural options of governance, shall allow for the necessary stability of a country of meager resources and for political alternation without disruptions.

Accepting fully, the principle of people's sovereignty, the present text of the Constitution enshrines a Democratic State based on the rule of Law, with a vast catalogue of citizens rights, liberties and guarantees, a concept of the dignity of the human person as an absolute value which prevails on the State itself, a system of government based on the balance of powers amongst the various organs of sovereignty, a strong and independent judicial power, a local power whose organs holders are elected by the communities and are responsible before them, a Public Administration devoted to serve the citizens and conceived as an instrument for development, and a system of safeguards for the protection of the Constitution, characteristic of a regime of pluralist democracy.

This Constitutional Law thus formally embodies the profound political changes that took place in the country and creates the institutional conditions for the exercise of power and citizenship, in a climate of liberty, peace and justice, which are the foundations of all the economic, social and cultural development of Cape Verde.

PART I -- FUNDAMENTAL PRINCIPLES

TITLE I -- THE REPUBLIC

Article 1 (Republic of Cape Verde)

1. Cape Verde shall be a sovereign unitary and democratic Republic which shall guarantee the respect for the dignity of the human person and shall recognize the inviolability and inalienability of Human Rights as the foundation of the whole human community, peace and justice.

2. The Republic of Cape Verde shall recognize the equality of all its citizens before the law, without distinction as to social origin or economic status, race, sex, religion, political or ideological convictions and social status and shall ensure the full exercise of the fundamental freedoms by all citizens.

3. The Republic of Cape Verde shall be based on the popular will and shall have, as its main purpose, the realization of economic, political, social and cultural democracy and the creation of a free, just and solidary society.

4. The Republic of Cape Verde shall gradually create the conditions indispensable for the removal of all the obstacles that impede the full development of the human person and limit the equality of its citizens, as well as their effective participation in the political, economic, social and cultural organization of the State and in the Capeverdean society.

Article 2 (Democratic State based on the rule of Law)

1. The Republic of Cape Verde shall be organized in a democratic State based on the rule of Law, the principles of people's sovereignty, pluralism of expression and democratic political organization and on the respect for fundamental rights and liberties.

2. The Republic of Cape Verde shall, in the organization of political power, recognize and respect the unitary nature of the State, the republican form of the government, the pluralist democracy, the separation and interdependence of powers, the separation between the Church and the State, the independence of the courts, the existence and the autonomy of local power and the democratic decentralization of Public Administration.

Article 3 (Sovereignty and constitutionality)

1. The sovereignty rests with the people that exercise it in accordance with the forms established in and in conformity with the Constitution.

2. The State shall be subordinated to the Constitution and based on the democratic legality and shall respect and impose the respect of the law.

3. The laws and other acts of the state, local power and public entities in general shall only be valid if in conformity with the Constitution.

Article 4 (Exercise Of Political power)

1. The political power shall be exercised by the people through referendum, suffrage and through other forms provided for constitutionally.

2. The holders of the organs of political power shall be appointed by suffrage. They may also be appointed by the representatives of the people or through any other constitutionally or legally established form.

Article 5 (Citizenship)

1. Capeverdean citizens shall be those recognized as such by law or by international convention.

2. The State may conclude treaties of dual nationality.

3. Capeverdeans citizens may obtain the citizenship of another country without losing their citizenship of origin.

Article 6 (Territory)

1. The territory of the Republic of Cape Verde shall consist of:

a) The islands of Santo Antao, Sao Vicente, Santa Luzia, Sao Nicolau, Sal, Boa Vista, Maio, Santiago, Fogo and Brava and the islets and rocks which historically have always been part of the archipelago of Cape Verde;

b) The internal waters, the archipelagic waters and the territorial sea, as established by law, as well as their respective soil and subsoil;

c) The air space superjacent to the geographical areas referred to in the above subparagraphs;

2. In its contiguous zone, exclusive economic zone and continental shelf, as established by law, the Republic of Cape Verde shall have sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, and shall have jurisdiction in accordance with its domestic law and the norms and rules of international law.

3. No part of the national territory or of the sovereign rights which the State exercises over such territory shall be alienated.

Article 7 (Tasks of the State)

1. The State shall pursue the following fundamental tasks:

a) To defend the independence, to guarantee the unity of the Capeverdean Nation and to promote the social, cultural, economic and political conditions necessary to that effect;

b) To guarantee the respect for Human Rights and to ensure the full exercise of the fundamental rights and liberties of all citizens;

c) To guarantee the respect for the republican form of the Government and for the principles of the Democratic State based on the rule of Law;

d) To guarantee political democracy and democratic participation of all citizens in the organization of political power and in the overall aspects of political and social national life;

e) To promote the well-being and the quality of life of the Capeverdean people, namely of the layers of society more in need, and to remove, progressively, the obstacles of an economic, social, cultural and political nature which impede a real equal opportunity for all citizens;

- f) To promote social solidarity, the autonomous organization of civil society, as well as the individual merit, initiative and creativity;**
- g) To support the Capeverdean Community world-wide and to promote in its midst the preservation and the development of the Capeverdean culture;**
- h) To foment education, culture, scientific investigation, the dissemination and the utilization of new technologies, as well as the dissemination of the Capeverdean culture in the world;**
- i) To create, progressively, the necessary conditions for the transformation and modernization of the economic and social structures, so as to make the economic, social and cultural rights effective;**
- j) To protect the landscape, nature, the natural resources and the environment, as well as the historical, cultural and artistic national heritage;**
- k) To guarantee the aliens that reside permanently or temporarily in Cape Verde or are on transit in the national territory, a treatment compatible with the international norms of Human Rights and the exercise of rights which are not, constitutionally or by law, reserved to the Capeverdean citizens.**

Article 8 (National Symbols)

1. The National Flag, the National Anthem and the National Coat of Arms shall be the symbols of the Republic of Cape Verde and of national sovereignty.

2. The National Flag is made up of five rectangles laid out horizontally and one over the other.

The upper and lower rectangles bear the blue color, having the upper rectangle an area equivalent to half of that of the flag and the lower rectangle one area equivalent to one fourth of that of the flag.

Separating the two blue rectangles there are three lanes, each one with an area equivalent to one twelfth of that of the flag.

The lanes adjacent to the blue rectangles bear the white color and the lane that lies between them bear the red color.

Over the five rectangles there are ten yellow stars of five tips, whose upper vertex is laid out on a ninety degree position, which define a circle whose center is located in the intersection of the median line of the second vertical fourth from the left, with the median line of the second horizontal fourth from the lower margin. A star nearer to the lower margin is inscribed in an invisible circumference, whose center is located over the median line of the lower blue lane.

3. The National Anthem shall be established by law to be approved by a two thirds majority of the deputies on active duty.

4. The Coat of Arms of the Republic of Cape Verde reflects a radial composition which has, from the center to the periphery, the following elements:

- a) An equilateral triangle which bears a blue color, in which a white torch is inscribed;**
- b) A circumference limiting a space in which the words "REPUBLIC OF CAPE VERDE" are inscribed from the left angle to the right angle of the triangle;**
- c) Three blue colored line segments parallel to the base of the triangle bordered by the first circumference;**
- d) A second circumference;**
- e) A yellow plummet, aligned with the vertex of the equilateral triangle over the two circumferences on their upper part;**
- f) Three yellow links placed on the composition base, followed by two green palms and ten yellow stars of five tips placed symmetrically in two groups of five.**

Article 9 (The Capital City of the Republic)

The Capital of the Republic of Cape Verde shall be the city of Praia, on the Island of Santiago.

TITLE II -- INTERNATIONAL RELATIONS AND INTERNATIONAL LAW

Article 10 (International Relations)

- 1. The State of Cape Verde shall be guided in international relations by the principles of national independence, the respect for International Law and Human Rights, the equality amongst States, the non-intervention in the internal affairs of other States, the reciprocity of advantages, the cooperation with all other peoples and peaceful coexistence.**
- 2. The State of Cape Verde shall uphold the rights of peoples to self-determination and independence and support the struggle of peoples against colonialism or any other form of domination or political or military oppression.**
- 3. The State of Cape Verde shall advocate the abolition of all forms of domination, oppression and aggression, disarmament and the peaceful solution of conflicts, as well as the creation of an international order that is just and capable of securing peace and friendship amongst peoples.**
- 4. The State of Cape Verde shall refuse the installation of military bases in its territory.**
- 5. The State of Cape Verde shall render to the international organizations, namely the United Nations Organization and the Organization of African Unity,**

every necessary cooperation for peaceful solution of conflicts and for securing international peace and justice, as well as the respect for Human Rights and for the fundamental freedoms and shall support all efforts of the International Community aimed at guaranteeing the respect for the principles enshrined in the United Nations Charter.

6. The State of Cape Verde shall maintain special ties of friendship and cooperation with the countries of Portuguese official language and with the receiving countries of Capeverdean migrant workers.

7. The State of Cape Verde shall be engaged in the effort the African identity, unity and integration and in the strengthening of acts of cooperation for development, democracy, progress and well-being of peoples, for the respect of Human Rights, peace and justice.

Article 11 (Reception of treaties and agreements in the domestic legal order)

1. General or common international law, insofar as it is in force in the international legal order, shall be an integral part of the Capeverdean legal order.

2. The international treaties and agreements, validly approved or ratified, shall be in force in the Capeverdean legal order after their official publication and their entry into force in the international legal order, and for the time that they are internationally binding on the State of Cape Verde.

3. The legal acts emanated from the relevant organs of the supranational organizations of which Cape Verde is a member, shall enter directly into force in the domestic legal order, provided that, that is so established in the respective constitutive instruments.

4. The rules and principles of general or common international law and of conventional international law, validly approved or ratified, shall prevail, after their entry into force in the international and domestic legal orders, over all legislative and domestic normative acts of an infra-constitutional value.

Article 12 (Participation in and the termination of the binding effect of international treaties and agreement)

1. The participation of Cape Verde in any international treaty or agreement shall be subject to prior approval by the relevant constitutional organ.

2. The termination of the binding effect of international treaties and agreements by agreement, denunciation, renunciation or by any other internationally accepted means shall be subject to the procedure followed for their approval.

Article 13 (Executive Agreements)

The executive agreements, which dispense with ratification, are approved by the Government and shall only cover subject matters that fall within the purview of the administrative jurisdiction of such organ.

PART II -- RIGHTS AND DUTIES OF CITIZENS

TITLE I -- GENERAL PRINCIPLES

Article 14 (Recognition of the inviolability of Rights, Liberties and Guarantees)

- 1. The State shall recognize the rights and liberties enshrined in the Constitution as being inviolable and shall guarantee their protection.**
- 2. Any public authority shall have the duty to respect and guarantee the free exercise of the rights and liberties and the compliance with the constitutional or legal duties.**

Article 15 (Responsibility of the public entities)

- 1. The State and other public entities shall be liable for actions or omissions of their agents, that take place in the exercise of their public functions or resulting therefrom and which, by any means, violate the rights, liberties and guarantees in detriment of the holder of such rights, liberties and guarantees or of third parties.**
- 2. The agents of the State or of any public entity shall be criminally and disciplinary responsible for actions or omissions which result in violation of the rights, liberties and guarantees enshrined in the Constitution or established by law.**
- 3. Everyone shall have the right to request compensation for the damages caused to him by the violation of his fundamental rights and liberties.**

Article 16 (Ambit and direction of rights, liberties and guarantees)

- 1. The laws and international conventions may establish rights, liberties and guarantees not established in the Constitution.**
- 2. The ambit and the essential content of constitutional norms concerning rights, liberties and guarantees shall not be restrained through interpretation.**
- 3. The constitutional and legal norm concerning fundamental rights shall be interpreted and the gaps filled in conformity with the Universal Declaration of Human Rights.**
- 4. The rights, liberties and guarantees shall be limited by law only when expressly allowed by the Constitution.**
- 5. The laws limiting rights, liberties and guarantees shall be necessarily of a general and abstract character and shall not have retroactive effect, nor shall they diminish the ambit and the essential content of constitutional norms and they shall be strictly limited to the safeguard of other constitutionally protected rights.**

Article 17 (Legal force)

The constitutional norms concerning the rights, liberties and guarantees shall be binding on all public and private entities and shall be directly applicable.

Article 18 (Right of Resistance)

Any citizen shall have the right not to obey any order that offends his right, liberties and guarantees and to resist by force any illegal aggression, when the recourse to the public authority is not possible.

Article 19 (Protection of Rights, Liberties and Guarantees)

1. Every citizen shall have the right to request the Supreme Court of Justice, through the amparo appeal, the protection of his constitutionally recognized fundamental rights, liberties and guarantees, in accordance with the law and pursuant to the following:

a) The amparo appeal shall only be filed against acts or omissions of public authorities, which are injurious of the fundamental rights, liberties and guarantees, once all other means of ordinary appeal have been exhausted;

b) The amparo appeal shall be filed through a simple petition and have an urgent character and its procedure shall be based on the summary principle.

2. Every citizen shall have the right to present, individually or collectively, to the public authority and to the representative organs of the people, complaints or claims against acts or omissions of the public powers that offend or threaten to offend his rights, liberties and guarantees.

Article 20 (Access to the Courts)

1. Every citizen shall have the right of access to judicial means, irrespective of his economic condition, and shall have the right to obtain, in a reasonable period, the effective protection of his rights or legitimate interests from the courts.

2. Every citizen shall have the right of defense and counsel assistance, as well as the access to information and legal consultancy, in accordance with the law.

Article 21 (Universality Principle)

1. Every citizen shall enjoy the rights, liberties and guarantees and be subject to the duties established in the Constitution.

2. Capeverdean citizens who reside or sojourn in a foreign country, shall enjoy the rights, liberties and guarantees and be subject to the constitutionally established duties which are not incompatible with their absence from the national territory.

3. The law may establish restrictions to the exercise of the political rights and to the access to certain public functions or positions by Capeverdean citizens who

are not citizens by origin.

Article 22 (Principle of equality)

Every citizen shall have equal social dignity and be equal before the law. No one shall have privilege, benefit or be injured, deprived of any right or exempted from any duty, on account of race, sex, ascendancy, language, origin, religion, social and economic conditions, or political or ideological convictions.

Article 23 (Aliens and Stateless Persons)

1. The aliens and stateless persons who reside or sojourn in the national territory, shall enjoy the same rights, liberties and guarantees and be subject to the same duties as the Capeverdean citizens, with exception of the political rights and the rights and duties reserved, constitutionally or by law, to national citizens.

2. The aliens and stateless persons may exercise public functions of a predominantly technical character, in accordance with the law.

3. Rights not granted to aliens and stateless persons may be recognized to the citizens of the Portuguese speaking countries, except for the access to being holders of the organs of sovereignty, the service in the Armed Forces and the diplomatic carrier.

4. The active and passive electoral capacity for the election of the holders of the organs of local administration may be granted by law to aliens and stateless persons residing in the national territory.

Article 24 (Regime of rights, liberties, guarantees)

The principles set out under this title shall be applicable to the individual rights, liberties and guarantees, as well as to the fundamental rights of analogous nature established in the Constitution, by law or in international convention.

Article 25 (Suspension of rights, liberties and guarantees)

The rights, liberties and guarantees shall only be suspended in case of the state of siege or emergency, in accordance with the provisions of the Constitution.

TITLE II -- RIGHTS, LIBERTIES AND GUARANTEES

CHAPTER I -- INDIVIDUAL RIGHTS, LIBERTIES AND GUARANTEES

Article 26 (The right to life and to physical and moral integrity)

1. Human life and the physical and moral integrity of the human person shall be inviolable.

2. No one shall be submitted to torture, cruel, degrading or inhumane penalties and treatment and, in no circumstances, shall there be death penalty.

Article 27 (The right to freedom)

- 1. The right to freedom shall be inviolable.**
- 2. Freedom of thought, of expression, of association, of religion, of cult, of intellectual, artistic and cultural creation, of demonstration and the remaining freedoms established in the Constitution, by law and in general or conventional international law, received in the internal legal order, shall be guaranteed.**
- 3. No one shall be obliged to declare his ideology, religion or cult, political or trade union affiliation.**

Article 28 (Right to freedom and security of person)

1. Anyone shall have the right to freedom and security. No one shall be deprived, in part or in whole, of his freedom, save in case of a condemnatory judicial sentence for the commission of acts punishable by law with imprisonment penalty or by judicial imposition of security measures.

2. The preceding paragraph shall not apply to the deprivation of freedom for the time strictly necessary to the attainment of the objectives set, in accordance with the conditions established by law, in one of the following cases:

- a) Imprisonment "in flagrante delicto";**
- b) Strong evidence of the commission of voluntary crime punishable with imprisonment penalty, whose maximum limit is more than two years and insufficiency or inappropriateness of measures of provisional liberty;**
- c) Non-compliance with the condition imposed on the indicted person under the regime of provisional liberty;**
- d) Detention or imprisonment to secure the obedience to judicial decision or the presence before the judicial authority competent for the practice of or compliance with a judicial act;**
- e) Subjection to security measures, assistance and protection of minors or of senior persons who by law shall enjoy the same status as the former;**
- f) Imprisonment or detention of persons against whom extradition or expulsion proceedings is underway;**
- g) Disciplinary imprisonment imposed on military and police agents with a guarantee of appeal to the competent court in accordance with the law, after exhausting all the hierarchical means.**

3. Any detained or imprisoned person shall be immediately informed, in an unequivocal and understandable manner, of the reasons for his detention or his imprisonment and about his constitutional and legal rights and he shall be authorized to contact counsel directly or through his family or person of his

confidence.

4. The detained or imprisoned person shall not be obliged to make statements.

5. The detained or imprisoned person has the right to the disclosure of the identification of those responsible for his detention or imprisonment or for his interrogation.

6. The detention or imprisonment of any person and the precise place where he is found shall be conveyed immediately to the family of the detained or imprisoned person or to the person he indicates, with a summary description of the reasons which led to his detention or imprisonment.

Article 29 (Preventive imprisonment)

1. Any person detained or imprisoned without being convicted shall be compulsory presented, in a period of not more than forty eight hours to a competent judge who shall explain to him in clear terms the reasons for his detention or imprisonment, inform him about his rights and duties, interrogate him in the presence of the defense counsel freely chosen by him, give him the opportunity to defend himself and produce decisions, substantiating the reasons for the validation or the maintenance of his imprisonment.

2. Preventive imprisonment shall not be maintained whenever it can be substituted by security, bail or by any other more favorable measure established by law.

3. The judicial decision of validation or maintenance of preventive imprisonment and the precise place where it will be carried out shall be immediately conveyed to a family member of the detained or imprisoned person or to a person of his confidence that he indicates.

4. The preventive imprisonment with or without conviction is subject to the periods established by law and shall not be, in any case, longer than thirty six months from the date of the detention or arrest, in accordance with the law.

Article 30 (Application of the Penal Law)

1. The penal responsibility shall be personal and intransmissible.

2. The retroactive application of the Penal Law shall be prohibited, except if the content of the most recent law is more favorable to the indicted person.

3. The application of security measures the constituent elements of which are not established in the previous law shall be prohibited.

4. No penalty or security measures shall be applied unless they are expressly contemplated in a previous law.

5. No one shall be tried more than once for the commission of the same crime nor

be punished with penalty not expressly established by law or with penalty more severe than that established by law at the moment of the commission of the delinquent behavior.

6. The security measures that are restrictive of liberty based on serious mental abnormality which results in a dangerous situation may be renewed successively, by judicial decision, for the time that the mental abnormality lasts and if the adoption of other measures that are not restrictive of liberty is not clinically possible or advisable.

7. The provision of paragraph 2 does not impede the punishment, in accordance with domestic law, for action or omission which, at the time they occurred, were considered criminal, pursuant to the principles and norms of general or common international law.

Article 31 (Prohibition of life imprisonment or imprisonment of an unlimited duration)

There shall not be, in any circumstances, penalty depriving of liberty, or security measure of a permanent character or with an unlimited or indefinite duration.

Article 32 (Effects of penalties and security measures)

No penalty or security measure shall entail, as a necessary effect, the loss of civil, political or professional rights nor shall they deprive the convicted person of his fundamental rights, except for the limitations inherent to the conviction and to the specific requirements for the implementation of the condemnatory decision.

Article 33 (Principles of penal procedures)

1. Every indicted person shall be presume innocent until his conviction becomes "res judicata," and shall be tried in the shortest time possible, compatible with the defense guarantees.

2. The indicted person shall have the right to choose freely his defense counsel to assist him in all procedural steps.

3. The indicted persons who, for economic reasons, are unable to hire defense counsel, shall have adequate judicial assistance to be provided for by relevant institutes.

4. Criminal procedure shall be subject to the contradictory principle.

5. The right to a hearing and the right of defense in criminal procedure shall be inviolable and be guaranteed to every indicted person.

6. Any evidence obtained through torture, force, violation of the physical and moral integrity, abusive interference with correspondence telecommunications, domicile or with private life or through other illicit means shall be null and void.

7. The hearings in criminal procedure shall be public, unless the preservation of personal, family or social intimacy require the exclusion or the restriction of publicity.

8. No case shall be withheld from a court whose competence has been established in previous law.

9. The rights of the indicted persons to a hearing and defense in disciplinary process shall be secured, in accordance with the law.

10. The exercise of the right to a hearing and defense in processes of regulatory offences or in disciplinary processes, in which the accused persons are military or police agents, shall be regulated by special law.

Article 34 (Habeas Corpus)

1. Any person detained or imprisoned illegally may apply for Habeas Corpus to the competent court.

2. Any citizen enjoying his political rights may apply for habeas corpus in favour of a person illegally detained or imprisoned.

3. The court, within a period of ten days, shall take a decision on the habeas corpus application.

4. The law will regulate the habeas corpus procedure.

Article 35 (Extradition and expulsion)

1. No Capeverdean citizen shall be extradited or expelled from his country.

2. Aliens or stateless persons shall not be extradited for political or religious reasons or on account of offense of opinion.

3. The extradition for crimes punishable by the law of the requesting State with death penalty or life imprisonment or in situation in which there is substantial reason to believe that the person to be extradited could be subjected to torture, inhumane, degrading or cruel treatment, shall not be allowed.

4. The expulsion from the national territory of aliens and stateless persons authorized to reside in the country or that have requested asylum shall only take place through judicial decision.

5. The extradition shall only be allowed in case where it is expressly provided for by law or by international convention.

Article 36 (The asylum right)

1. Aliens or stateless persons persecuted for political reasons or seriously threatened of persecution on account of their activity in favor of national

liberation, democracy or the respect for human rights, shall be granted the right of asylum in the national territory.

2. The law will define the statute of the political refugee.

Article 37 (The right to nationality)

No Capeverdean citizen by origin shall be deprived from nationality or from the prerogatives of citizenship.

Article 38 (The right to identity, good name and image)

1. The right to personal identity, civil capacity, good name, honor and reputation, to image and intimacy of personal and family life shall be guaranteed.

2. Civil capacity shall only be limited through a judicial decision, in the cases and as provided or by law.

Article 39 (Right to choose profession and of access to civil service)

1. Every citizen shall have the right to choose freely his occupation, work or profession or to undertake his professional education, except in cases of legal restrictions imposed on account of public interest or inherent to his own capacity or professional qualifications.

2. Every citizen shall have the right of access to civil service in conditions of equality, in accordance with the law.

3. No one shall be obliged to undertake a given work, except in compliance with a general public service that is equal for all or by virtue of a judicial decision, in accordance with the law.

Article 40 (Inviolability of domicile)

1. The domicile shall be inviolable.

2. No one shall enter the domicile of any person or undertake therein search or seizure against the will of the latter, except when in possession of judicial mandate issued in the cases of, and in conformity with, the form legally established or in case of flagrante delicto or to assist in an emergency.

3. The law shall typify the cases in relation to which the competent judicial authority shall order the entry, search and seizure of valuables, documents and other objects in the domicile.

4. In no circumstances the entry, search or seizure in the domicile during the night shall be allowed.

Article 41 (Inviolability of correspondence and telecommunications)

The secrecy of correspondence and telecommunications shall be guaranteed, except in cases in which, through judicial decision rendered in accordance with the procedural criminal law, the interference with the correspondence and telecommunications by the public authorities is allowed.

Article 42 (Utilization of computerized means)

- 1. The utilization of computerized means for registration and treatment of data that are individually identifiable, relative to political, philosophical and ideological convictions or to religious faith, party or trade union affiliation and private life, shall be prohibited.**
- 2. The law will regulate the protection of personal data stored in the computerized record, the conditions of access to the data banks, as well as the establishment and the use, by public or private authorities, of such data banks or computerized software.**
- 3. The access to the archives file, computerized records and data bases for information on personal data relative to third parties or the transfer of personal data from one computerized file to another belonging to different services or institutions shall not be allowed, except in cases laid out by law or by judicial decision.**
- 4. In no circumstance shall there be a sole national number ascribed to Capeverdean citizens.**

Article 43 (Habeas data)

- 1. Habeas data shall be granted to every citizen to secure his knowledge of information stored in files, archive or computerized records concerning him, as well as to inform him of the objective of such information and to demand a correction or update of the data.**
- 2. The law will regulate the habeas data procedure.**

Article 44 (Marriage and filiation)

- 1. Everyone shall have the right to get married, in the civil or religious form.**
- 2. The law will regulate the requirements and the civil effects of marriage and its dissolution, irrespective of the form of its celebration.**
- 3. The spouses have equal civil and political rights and duties.**
- 4. The children shall only be separated from their parents through judicial decision and always in cases provided for by law, should the latter not comply with their fundamental duties towards the former.**
- 5. The discrimination against children born out of wedlock or the use of any discriminatory designation concerning filiation shall not be allowed.**

6. Adoption shall be allowed and the law will regulate its forms and conditions.

Article 45 (Freedom of expression and information)

1. Everyone shall have the freedom to express and to disseminate his ideas through word, image and any other means and no one shall be subjected to discomfort, on account of political, philosophical, religious and other opinion.

2. Everyone shall have the freedom to inform and to be informed, to search for, receive and disseminate information and ideas and in any form, without limitations, discrimination or impediments.

3. The limitations in the exercise of these freedoms, by any type or form of censorship, shall be prohibited.

4. The freedom of expression and information shall have as its limits the right of every citizen to honor and to good name, to image and intimacy of personal and family life, as well as to protection of the youth and the infancy.

5. The offences committed in the exercise of the freedom of expression and information shall entail civil, disciplinary and criminal responsibility for the violator, in accordance with the law.

6. Every natural or juridical person shall have the right of reply and of correction, as well as the right of compensation for the damages caused, as a result of offences committed in the exercise of the freedom of expression and information, in conditions of equality and efficacy.

Article 46 (Freedom of the press)

1. The freedom of the press shall be guaranteed.

2. The provision of the previous article shall be applicable to the freedom of the press.

3. The freedom and the independence of the media in relation to the political and economic power and its non-subjection to censorship of any type shall be guaranteed.

4. The expression and confrontation of ideas of different currents of opinion in the media owned by the public sector shall be guaranteed.

5. The State shall guarantee the impartiality of the media owned by the public sector, as well as the independence of its journalists in relation to the Government, the Administration and to any other public entity.

6. The establishment of creation of newspapers and other publications shall not require administrative authorization nor shall they be conditioned to prior deposit of security or any other guarantee.

- 7. The establishment or creation of radio or television stations shall require license to be granted through public competition in accordance with the law.**
- 8. The access to the sources of information shall be guaranteed to the journalists, in accordance with the law, and the protection of the latter's professional independence and secrecy shall be ensured. No journalist shall be obliged to reveal his source of information.**
- 9. The State shall ensure the existence and the functioning of a public service of radio and television.**
- 10. The ownership and the financial means of the mass media shall be obligatory disclosed, in accordance with the law.**
- 11. The seizure of newspapers and other publications shall only be allowed in cases of violation of the mass media law or whenever such publications do not indicate the persons responsible for them.**

Article 47 (Right of antenna, reply, and political argument)

- 1. The political parties shall have the right to:**
 - a) A broadcasting time on public radio and television, in conformity with their representativeness and such other objective criteria as may be defined by law;**
 - b) Reply and political argument in relation to declarations of the government.**
- 2. The right of broadcasting time may also be granted by law to the trade unions, enterprises and the religious institutions.**
- 3. The right of reply shall be granted to all professional associations representative of the economic, social or cultural activities, as well as to religious institutions.**
- 4. During the electoral periods, the competitors shall have the right to a broadcasting time, on a regular and equitable manner, in all radio and television stations, however their ambit or ownership may be, in accordance with the law.**
- 5. The law will regulate the right of broadcasting time, reply and political argument established in this article.**

Article 48 (Freedom of conscience, religion and cult)

- 1. The freedom of conscience, religion and cult shall be inviolable and everyone shall have the right, individually and collectively, to follow a religion or not, to have a religious conviction of his own choice, to participate in the act of cult and freely express his faith and to disseminate his doctrine or conviction, provided that he does not cause harm to the right of others or to the common good.**
- 2. No one shall be discriminated against, persecuted, injured, deprived from his**

rights nor have any benefit or be exempted from his duties on account of his religious faith, conviction or practice.

3. The churches and other religious communities shall be separated from the State and shall be independent and free in their organization or in the exercise of their own activity, being them considered partners in the promotion of social and spiritual development of the Caperverdean people.

4. The freedom of religious teaching shall be guaranteed.

5. The freedom of religious assistance in the hospital, assistance and prison establishments, as well as in the Armed Forces shall be guaranteed in accordance with the law.

6. The right to use the mass media shall be recognized to churches in accordance with the law for the pursuit of their activities and goals.

7. The protection of the cult places, insignias and religious rites shall be guaranteed and their imitation or ridicule shall be prohibited.

8. The right to conscientious objection shall be guaranteed in accordance with the law.

Article 49 (Freedom to learn, educate and teach)

1. Everyone shall have the freedom to learn, educate and teach.

2. The freedom to learn, educate and teach encompasses the right:

a) To attend learning and education establishments and to teach therein without any discrimination, in accordance with the law;

b) To choose the field of education or programme;

c) To set up schools and educational establishments.

3. The fundamental right of the family to educate its children in conformity with the ethical and social principles, resulting from its philosophical, religious, ideological, aesthetical, political and other convictions, shall be recognized.

4. The State shall not program education and culture in conformity with any philosophical, aesthetical, political, ideological or religious directives.

5. Public education shall not be religious.

6. The State shall not monopolize teaching and education and the freedom to set up schools and educational establishments shall be recognized to the communities, social groups and private individuals in general, in accordance with the law.

Article 50 (Freedom of movement and emigration)

- 1. Every citizen shall have the right to leave and to return freely to the national territory, as well as to emigrate.**
- 2. The restrictions of the rights set out in the preceding paragraph shall only be imposed through judicial decision and shall always have a temporary character.**

Article 51 (Freedom of association)

- 1. The creation of associations shall be free and shall not require any administrative authorization.**
- 2. The associations shall be free in the pursuit of their goals and shall not be subjected to the interference of the authorities.**
- 3. The dissolution of the associations or the suspension of their activities shall only be determined through judicial decision in accordance with the law.**
- 4. Armed associations or associations of a military or para-military type as well as those that aim at promoting violence, racism, xenophobia or dictatorship or pursue goals contrary to criminal law shall be prohibited.**
- 5. No one shall be obliged to be or to remain a member of an association.**

Article 52 (Freedom of assembly and demonstration)

- 1. The freedom of assembly and peaceful demonstration and without arms shall be guaranteed to every citizen, including in places open to the public, without the necessity for authorization.**
- 2. The promoters of assembly or demonstration in places open to the public shall so inform the competent authority ahead of time.**

Article 53 (Freedom of intellectual, artistic and cultural creation)

- 1. Intellectual, cultural and scientific creation, as well as the dissemination of literary, artistic and scientific work shall be free.**
- 2. The law shall guarantee the protection of copyrights.**

**CHAPTER II -- RIGHTS, FREEDOMS AND GUARANTEES
OF POLITICAL PARTICIPATION**

Article 54 (Participation in public life)

- 1. Every citizen shall have the right to participate in the political life, directly and through his freely elected representatives.**
- 2. All citizens, with eighteen or more years of age shall have the right to be**

electors.

3. The voting right shall not be limited, unless by virtue of incapacity established by law.

Article 55 (Participation in the conduct of public affairs)

1. Every citizen shall have the right of access, in conditions of equality and liberty, to civil service and elected office, in accordance with the law.

2. No one shall be harmed in his professional career, his employment or in the social benefits he is entitled to, on account of his holding of public office or the exercise of his political rights.

3. The law shall guarantee the impartiality and the independence in the exercise of public office and shall establish the necessary ineligibility criteria to that end.

Article 56 (Political Parties)

The establishment of political parties, as well as their merger, coalition or abolition shall be free, in accordance with the Constitution and the law.

Article 57 (Right of petition, claim and complaint)

Every citizen shall have the right to present, in writing, individually or collectively, to the public authorities, petitions, complaints or claims for the protection of his rights or against illegalities or abuse of power, in accordance with the law.

CHAPTER III -- RIGHTS, LIBERTIES AND GUARANTEES OF THE WORKERS

Article 58 (Right to work, social security, vacation and material assistance)

1. Work shall be a right of every citizen. The State shall have the duty to create the necessary conditions for the effective realization of such right.

2. The right to adequate social security in case of illness, work accident, old age or involuntary unemployment, as well as to paid and periodical vacation, rest, leisure and material assistance shall, progressively, be guaranteed to all workers, in accordance with the national economic development.

Article 59 (Right to a pay and job security)

1. Everyone shall have the right to a pay proportionate to the quantity and the quality of work and to job security.

2. Layoffs for political or ideological motives shall be prohibited.

3. Layoffs without probable cause as established in law shall be illegal.

4. Every worker shall have also the right to the organization of work under dignifying conditions, to carry out his work duties under hygienic and security conditions and to a maximum working day limit, as well as to a pause, leisure and to weekly rest.

5. Men and women alike shall get equal pay for equal work.

6. The law shall establish special protection for the minor's working conditions, for the disabled persons and women during their pregnancy, as well as after the delivery and shall guarantee to women the working conditions that will allow them exercise their family and maternal function.

Article 60 (National minimum wage and maximum working time limit)

The State shall determine, at the national level, the working time limits and shall create the conditions for the establishment of a national minimum wage for the different sectors of activity.

Article 61 (Freedom of professional and trade union associations)

1. The freedom to establish trade union or professional associations shall be recognized to every work for the protection of his interests and collective or individual rights.

2. The establishment of trade union or the professional associations shall not require administrative authorization.

3. Full organizational, functional and regulatory autonomy shall be guaranteed to the trade union associations and professional associations.

4. The trade union and the professional associations shall be bound by the principles of democratic organization and management, based on the active participation of their members in all their activities and by the periodic election of their organs through secret ballot.

5. The trade union and the professional associations shall be independent from the employer, the State, the political parties, the Church or religious communities.

6. The law will regulate the establishment, union, federation and the abolition of the trade union and professional associations and shall guarantee their independence and autonomy from the State, employer, political parties and associations, the Church and religious communities.

7. The law shall ensure the adequate protection of the workers' elected representatives against any limitations to the exercise of their functions, persecution or threat against them in their working place.

Article 62 (Freedom of enrollment in trade unions)

No one shall be obliged to enroll in a trade union or professional association, nor remain trade- unionized or professionally associated, nor pay contribution fees to trade union or professional associations in which he is not enrolled.

Article 63 (Right of trade unions and professional associations)

1. With a view to defending the workers rights, the trade unions shall have the right to participate, in accordance with the law:

a) in the organisms of social reconciliation;

b) in the definition of the policy of social security and other institutions aimed at protecting and defending the workers interests;

c) in the elaboration of the labor legislation.

2. The trade unions shall have the competence to conclude collective labor agreements.

Article 64 (The right to strike and prohibition of lock out)

1. The right to strike shall be guaranteed, and it shall depend on the workers to decide on the opportunity to exercise it and the interests which they purport to protect with it.

2. The lock out shall be prohibited.

3. The law will regulate the exercise of the right to strike.

TITLE III -- ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND DUTIES

Article 65 (Private economic initiative)

1. Everyone shall have the right to free private economic initiative, which shall be exercised in conformity with the Constitution and the law.

2. Everyone shall have the right to set up enterprises and cooperatives, in accordance with the law.

Article 66 (Right to private property)

1. Everyone shall have the right to private property, as well as its transfer in life or as a result of death, in accordance with the Constitution and the law.

2. The right to inheritance shall be guaranteed.

3. The requisition or expropriation for public reasons shall only take place in accordance with the law and always against the payment of a just compensation.

Article 67 (The right to social security)

1. Everyone shall have the right to social security, in conformity with the national development, for his protection in the unemployment, illness, disability, old age, or as an orphan and in all situations of lack or diminution of the means of subsistence or of the capacity to work.

2. The State shall ensure the gradual creation of the conditions that are indispensable to the exercise of these rights, namely through the adoption of policies towards the setting up of a decentralized national system of social security and a national network of medical and hospital services.

Article 68 (Health)

1. Everyone shall have the right to health and the duty to defend and promote it, irrespective of his economic condition.

2. The right to health shall be achieved through an adequate network of health services and the gradual creation of economic, social and cultural conditions necessary to guarantee the improvement of quality of life of the populations.

3. With a view to guaranteeing the right to health, the State shall, namely:

a) Ensure, in conformity with the economic resources available, a national, universal and hierarchical health service, based on complete coverage, priority being given to preventive activities.

b) Encourage the participation of the community in different levels of health services;

c) Coordinate and discipline public and private initiatives in the field of health;

d) Discipline and control the production, commercialization and the use of the chemical, biological, pharmaceutical and other means of treatment, as well as the diagnoses.

Article 69 (Dwelling)

Everyone shall have the right to a dwelling which should have a minimum of dignity and, for this purpose, the State shall undertake to promote, gradually and in conformity with the national economic development, the creation of the appropriate institutional, legal and infrastructural conditions, foment and support the initiatives of the local communities and of the population and stimulate private housing development and the access to privately owned housing.

Article 70 (Environment)

1. Everyone shall have the right to a healthy life and ecologically balanced environment and the duty to defend and conserve it.

2. The State and the municipalities, with the collaboration of the associations for environment protection, shall adopt policies for the protection and conservation of the environment and shall ensure the rational utilization of all natural resources.

3. The State shall stimulate and support the creation of associations for the protection of the environment and natural resources.

Article 71 (Youth)

1. Every young person shall have the right to special protection from his family, the society and the State which should allow him to develop his personality, his physical and intellectual capacity and integrate himself fully into the social, cultural, political and economic life.

2. The family, the society and the State shall promote the conditions for the free participation of young people in the political life and in the economic and social development and for the realization of their social, cultural, political and economic rights.

3. The State and the society shall stimulate and support the creation of youth organizations aimed at pursuing cultural artistic, recreational, sportive and educational goals.

4. Th State, in cooperation with the associations representing parents and education guardians, as well as the private institutions and the youth organizations, shall adopt a national youth policy to promote and foment the professional education of young people, the access to their first employment and the free intellectual and physical development of youth.

Article 72 (The right of the disabled and the elderly)

1. The disabled and the elderly shall have the right to special protection from their family, the society and the State, which should guarantee to them priority in the public and private services attendance, special treatment and care, as well as the conditions necessary to avoid their marginalization.

2. The State, in cooperation with the private entities and the disabled or the elderly associations, shall promote a national policy aimed at, gradually:

a) guaranteeing the prevention, treatment, rehabilitation and integration of the disabled;

b) guaranteeing to the elderly and the disabled the economic, social and cultural conditions which should allow them to participate in the social life;

c) sensitizing the community for the problems of the disabled and the elderly, as well as for the need to create the conditions aimed at avoiding their isolation and social marginalization.

3. The State shall foment and support the special education and the creation of special schools for technical and professional education of the disabled.

4. The State shall foment and support the creation of associations of the disabled and the elderly.

Article 73 (Education)

1. Everyone shall have the right to education.

2. The State shall ensure the elementary education, which shall be compulsory, universal and free of charge and whose duration shall be established by law.

3. All the education shall be under State monitoring.

Article 74 (Education policy)

1. The State shall promote an education policy which should aim at the gradual elimination of analphabetism, the permanent education, the creativity, the integration of the schools into the community and the civic education of the students.

2. The State shall guarantee to the students who have scarce economic resources the access to the various levels of education and promote a policy of scholarships or economic aid based on the capacity and the personal merit of the student.

Article 75 (Public, private and cooperative education)

1. The State shall create a network of public education establishments aimed at satisfying the necessities of the population.

2. The State shall recognize the private and cooperative education and guarantee to the private entities or institutions, as well as to the cooperatives the right to establish schools at different levels of education, in accordance with the law.

3. The State shall cooperate with the private schools or cooperatives with the aim of fomenting the widening of the education network, the elimination of analphabetism, the permanent education, the quality of education, the training or the continued education of the teachers and the remaining conditions necessary for the education improvement.

Article 76 (Participation in the education)

1. The teachers, parents, education guardians and students shall have the right to participate in the democratic management of the schools, in accordance with the law.

2. The law will regulate the forms of participation of teachers, students and parents associations, as well as communities, institutions of a scientific character

and the professional and trade union associations in the formulation of the education policy.

Article 77 (Education and Culture)

- 1. Everyone shall have the right to education and culture.**
- 2. Education should stimulate creativity, promote democratic participation of all in the national life, tolerance and solidarity and contribute towards social progress and civil and moral education.**
- 3. The State shall promote the democratization of the education and culture and shall, gradually, guarantee the access of everyone to the enjoyment of cultural goods.**
- 4. The State shall foment and support the creation of institutions and public or private associations which promote the education and culture, as well as the protection of the cultural heritage.**
- 5. The State shall support the dissemination of Capeverdean culture, namely in the midst of the Capeverdean communities spread out around the world.**

Article 78 (Physical education sport)

- 1. Everyone shall have the right to physical education and sport.**
- 2. The State shall support and stimulate the establishment of sport associations or collectivities and, in collaboration with these associations, shall promote the practice and the dissemination of physical education and sport.**

Article 79 (Consumers)

The State shall support and foment the establishment of consumer associations and the law shall protect the consumer and guarantee the protection of his rights.

TITLE IV -- THE DUTIES

Article 80 (General Duties)

- 1. Everyone shall have duties towards his family, the society and the State and also towards other legally recognized institutions.**
- 2. Everyone shall have the duty to respect the rights and liberties of others, the mores and the public good.**

Article 81 (Duties towards his peers)

Everyone shall have the duty to respect and show consideration for his peers, without any discrimination, and to maintain with them relations which facilitate the promotion, safeguard and the strengthening of mutual respect and tolerance.

Article 82 (Duties towards the Community)

Everyone shall have the duty to:

- a) Serve the national community, making available to it his physical and intellectual capacities;**
- b) Work within the limits of his capabilities and capacities;**
- c) Pay the contributions and taxes established by law;**
- d) Undertake to ensure, in his relations with the community, the preservation and the reinforcement of cultural values, spirit of tolerance, dialogue and compromise and, in general, to contribute towards the promotion of moral and civic education;**
- e) Defend and promote health;**
- f) Defend and preserve the environment.**

Article 83 (Duties towards the State)

- 1. Everyone shall have the duty to contribute towards the defense of his country.**
- 2. Everyone shall have also the duty to comply with the duties laid down by law and to abide by the orders of the legitimate authorities, issued in accordance with the Constitution, observance being made of the respect for his rights, liberties and guarantees.**

TITLE V -- THE FAMILY

Article 84 (Protection of the society and State)

- 1. The family shall be the fundamental element and the foundation of the whole society.**
- 2. The family should be protected by society and by the State in such a manner as to allow for the creation of conditions for the compliance with its social function and for the personal fulfillment of its members.**
- 3. Everyone shall have the right to have a family.**
- 4. The State and the social institutions shall create the conditions which will ensure the unity and the stability of the family.**

Article 85 (Tasks of the State)

- 1. With a view to protecting the family, the State shall undertake, namely:**

- a) to assist the family in its mission as a keeper of moral values recognized by society;
 - b) to promote social and economic independence of the families,
 - c) to cooperate with the parents in the education of their children,
 - d) to define and implement, in consultation with the associations representative of the families, a policy for the family which has a global and integrated character;
2. The State shall also have the duty to undertake the elimination of the conditions which are conducive to discrimination against women and to ensure the protection of their rights, as well as the rights of the children.

Article 86 (Fatherhood and motherhood)

1. Fathers and mothers shall assist their children born inside and outside the wedlock, namely with respect to their feeding, guardianship and education.
2. Fathers and mothers shall have the right to protection by society and the State in the fulfillment of their irreplaceable role in relation to their children.
3. Fatherhood and motherhood shall be eminent social values.

Article 87 (Infancy)

1. Every child shall have the right to special protection from their family, society and the State, which shall guarantee to them the necessary conditions for the integral development of their physical and intellectual capacities, as well as special care in case of illness, abandonment or lack of affection.
2. The family, society and State shall guarantee the protection of the child against any form of discrimination or oppression, as well as against the abusive exercise of the authority in the family, in public or private institutions to whose guardianship he has been entrusted and also against the exploitation of child labor.
3. Children under compulsory school age shall be prohibited from working.

PART III -- ECONOMIC, FINANCIAL AND FISCAL ORGANIZATION

TITLE I -- THE ECONOMIC SYSTEM

Article 88 (General Principles)

1. All the resources and economic wealth of the Nation, whatever the ownership and the form they may take, shall be subordinated to the general interest.

2. The State shall guarantee the conditions for the realization of economic democracy, undertaking to ensure:

a) The enjoyment by every citizen of the benefits resulting from the collective effort in the social and economic development, translated, namely, into the quantitative and qualitative improvement of their living standard;

b) The equality of conditions for the establishment, realization and competition of all private and public economic agents:

c) The participation of different social and economic groups, through their representatives and organs of local administration in the process of conceiving, approving, implementing and evaluating the development plans;

d) The environment favorable to free and generalized access to knowledge, information and property;

e) The balanced development of all the regions and the appropriate exploitation of specific and comparative advantages.

3. The economic activities shall not jeopardize the eco-system, nor should they contribute to the disequilibrium of the relations between man and the environment.

4. The State shall support the national economic agents in their relation with the rest of the world and, especially, the economic agents and activities that contribute positively to the integration of Cape Verde into the world economic system.

Article 89 (External Investment)

The State shall promote and support foreign investment which might contribute to the economic and social development of the Nation.

Article 90 (Co-existence of sectors of the economy)

1. The co-existence of the following sectors of the economy shall be guaranteed:

a) Public sector, constituted by the means of production whose property and management belong to the State or to other public entities:

b) Private sector, constituted by the means of production whose property and management belong to the natural or juridical persons, including the cooperatives. 2. Community means of production belonging to local communities and managed by them may be allowed.

Article 91 (Public Domain)

1. The following belongs to the public domain:

- a) **The internal waters, the archipelagic waters and the territorial sea, as well as their bed and subsoil;**
- b) **The air space superjacent to the national territory above the limit recognized to private ownership;**
- c) **The continental shelf;**
- d) **The living and non-living resources existing in the internal waters, archipelagic waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf,**
- e) **The mineral deposits and the subterranean natural caves existing in the subsoil.**
- f) **The roads and the public path-ways;**
- g) **The beaches and the maritime territorial zone;**
- h) **Any other asset that may be determined by law.**

2. The law will regulate the legal regime applicable to the assets of the public domain, as well as their management and conservation, stating those that belong to the public domain of the State and those that belong to the local administration and to the communities, safeguarding the respect for the principles of inalienability , and non-prescription, as well as the principle of the non-use of such properties as a guarantee and their non-appropriation.

Article 92 (Plans)

- 1. The economic and social development of Cape Verde shall be guided by the national plan which shall have an indicative character and contain the fundamental orientations of the sectorial and regional plans.**
- 2. The major options of the plan and the national plan shall be drawn-up by the Government, in accordance with its program.**
- 3. The plan major options shall be submitted to the National Assembly for approval.**
- 4. The implementation of the plans shall be decentralized, without prejudice to their coordination by the Government.**

TITLE II -- FINANCIAL AND FISCAL SYSTEM

Article 93 (Financial system)

The financial system shall guarantee the formation and the channeling of savings, as well as the application of the financial means necessary to the economic and social development of the country.

Article 94 (The Bank of Cape Verde)

- 1. The Bank of Cape Verde shall be the central bank which shall have the exclusive right to issue money and collaborate in the definition and implementation of the monetary, financial and exchange rate policies in accordance with the law.**
- 2. The provision of the preceding paragraph shall not exclude the limitations, nor the compliance with the obligations imposed by the participation of Cape Verde in the supra-national organizations for African regional and subregional integration.**

Article 95 (Fiscal system)

- 1. The fiscal system shall be structured with a view to satisfying the financial needs of the State and the remaining public entities, attaining the objectives of the economic and social policies of the State and guaranteeing a fair distribution of income and wealth.**
- 2. Taxes shall be levied by law which shall determine the tax base, the rates, the fiscal benefits and the tax payers guarantees.**
- 3. No one shall be obliged to pay taxes which have not been levied in accordance with the Constitution or whose determination and payment are not made in accordance with the law.**
- 4. The tax base shall not be increased, nor shall the rates be aggravated in the same financial exercise.**

Article 96 (Non-retroactivity of the Fiscal Law)

Fiscal Law shall not have retroactive effect, unless it has a more favorable content for the tax payer.

Article 97 (Budget)

- 1. The State budget shall be unitary and shall specify the revenues and expenditures, breaking them down in accordance with the respective organic and functional classification, shall respect the rule of annuality and publicity and shall be drawn up in such a form that all expenditures contemplated therein are effectively covered by revenues.**
- 2. The budget may be structured along programmes or projects which may be pluriannual and in this case the expenditures concerning the year to which they relate shall be set out in the budget.**
- 3. The economic year coincides with the civil year.**
- 4. The law will define the rules for the budget implementation and the criteria which shall preside over its changes during the implementation period.**

Article 98 (The budget preparation)

- 1. The proposal for the State budget shall be presented by the Government and voted on by the National Assembly within the dates established by law.**
- 2. The law shall establish the process to follow, whenever it is not possible to comply with the dates for the presentation of or for the vote on the budget.**
- 3. The budget proposal shall be accompanied by reports justifying the revenues and expenditures, the variations of such revenues and expenditures, as well as other elements that may be necessary.**

Article 99 (Budget monitoring)

The implementation of the State budget shall be monitored by the Court of Audit and by the National Assembly which shall consider and approve the State General Account, in consultation with such Court.

PART IV -- EXERCISE AND ORGANIZATION OF POLITICAL POWER

TITLE 1 -- FORMS OF EXERCISE OF POLITICAL POWER

CHAPTER I -- GENERAL COMMON PRINCIPLES

Article 100 (Electoral Census)

- 1. The right to elect or to be elected to any political office shall only be exercised by the elector who is validly registered in an electoral census on the date of the elections or of the presentation of his candidature.**
- 2. The electoral census shall be official, compulsory, permanent and the same for all elections that are to be carried out through direct, universal and secret ballot and shall correspond, at all times, to the electoral universe.**
- 3. Every citizen shall have the right to promote his registration in the electoral census, verify if he is registered and, in case of error, request the necessary correction in accordance with the law. 4. The census registration of electors shall be compulsory made by the competent census entity.**
- 5. The political parties may collaborate with the census commissions, monitor the activities of the latter, request information, obtain copies of the electoral lists, present claims, lodge protests and counter-protests in accordance with the law.**
- 6. The law will regulate the electoral census.**

Article 101 (Judgment of the electoral process)

The courts shall have exclusive competence to adjudge the regularity and validity of the electoral process.

Article 102 (Electoral Law)

Starting from the year preceding the holding of the elections for any organ of political power and until the determination of the results, the respective electoral law shall not be altered or revoked.

Article 103 (Electoral campaign)

- 1. The candidates, the political parties, the coalitions and the groups of independent citizens that run for election shall have the right to freely promote and run electoral campaign, which should include electoral advertising, in the electoral circles in which they are running.**
- 2. The period for electoral campaigns shall be established by law.**
- 3. Citizens shall have the right to participate actively in the electoral campaign.**
- 4. The expression of ideas or of political, economic or social principles shall not be restricted in the course of the electoral campaign, without prejudice to the applicable civil or criminal responsibility.**
- 5. The electoral law will regulate the electoral campaigns, based on the principles of freedom of advertising, equality of opportunity and treatment of all the candidates, competing political parties and forces, impartiality on the part of all public entities towards the candidatures and monitoring of the electoral accounts.**

Article 104 (Monitoring of the electoral operations)

The voting operations and the counting of the votes are monitored by the candidates, by competing political parties and political forces, through their representatives appointed by them for each electoral act.

Article 105 (Secrecy and entitlement to one vote)

- 1. The vote shall be secret and no one shall be obliged to reveal the position of his vote.**
- 2. Each elector shall only be entitled to one vote.**

Article 106 (Electoral circles)

- 1. For the purposes of the election of the President of the Republic, the national territory shall constitute a single electoral circle which corresponds to a single electoral college.**
- 2. For the purposes of the election of the members of the National Assembly, the national territory shall be divided into electoral circles to be defined by law, each one of them to correspond to an electoral college.**

3. Outside the national territory the electoral circles shall be those defined by law. Their headquarters, however, shall always be in the city of Praia.

Article 107 (Electors residing abroad)

The voters residing abroad shall be integrated into the electoral college corresponding to the electoral circles through which they are registered in the electoral census.

CHAPTER II -- REFERENDUM

Article 108 (General and common principles)

- 1. The electors registered in the electoral census in the national territory shall have the right to pronounce themselves through a referendum on any matter relevant to national or local interest.**
- 2. The convening and the holding of a referendum shall be prohibited between the date of the convening and the holding of the elections for the organs of sovereignty or of local power, during the state of siege or emergency and until thirty days following its cessation, and in the latter case, only in the part of the territory declared to be under the state of emergency.**
- 3. Each referendum shall only have a sole question as its object and the following questions shall not, in any case, be submitted to popular scrutiny:**
 - a) Separation and the interdependence of the organs of sovereignty and their powers;**
 - b) Independence of the courts and their decisions;**
 - c) Separation of churches from the State;**
 - d) Appointment of the elected holders of the organs of sovereignty and of local administration by universal, direct, secret and periodic ballot;**
 - e) Pluralism of expression, existence of political parties and associations and rights of the opposition;**
 - f) Rights, liberties and guarantees established constitutionally;**
 - g) National or local acts which have a budgetary, tributary or financial content;**
 - h) Autonomy of the local administration, as well as the organization and competence of their organs.**
- 4. The proposals for a referendum shall be subject to preventive monitoring of their constitutionality and legality.**

5. Once the proposal for a referendum is judged to be unconstitutional or illegal, such referendum shall not take place, nor shall the proposal be renewed in the same legislature.

6. Proposals for a referendum that have been refused by the competent organ or that have been the object of a negative response from the electorate shall not be renewed in the same legislature.

7. The result of a referendum shall be abided by all organs of political power, as well as by public and private entities.

8. The provisions of Articles 102 to 105 shall be applicable to the referenda, with the necessary adaptations.

9. The questions to be submitted to the electors shall be formulated with simplicity, objectivity, precision and clarity, in such a way as not to suggest, directly or indirectly, any response.

Any response shall be given as a "yes" or a "nay."

Article 109 (National Referendum)

1. The referendum at the national level shall be convened by the President of the Republic, at the initiative of the people, the National Assembly or the Government.

2. At the people's initiative, the President of the Republic may convene a referendum on any matter relevant to national interest, at the request of thirty thousand citizens, after the political parties represented in the National Assembly and the Council of the Republic are heard.

3. The request referred to in the preceding paragraph should be sponsored by a minimum of ten per cent of the electors, residing in, at least, seven islands.

4. The proposal of the National Assembly shall be approved by two thirds of the deputies present, if the number is higher than the absolute majority of the deputies on active duty.

Article 110 (Local Referendum)

1. The local referendum shall cover matters that are of exclusive competence of the organs of local administration and shall always have deliberative effect.

2. The local referendum shall be convened by the Mayor at the initiative of the Municipality, the Municipal Assembly or, at the initiative of, at least, ten percent of the electors registered in the electoral census of the area of the local administration where the consultation takes place.

3. The convening of a referendum shall be approved by the majority of two thirds of the members of the Municipal Assembly on active duty.

CHAPTER III -- SUFFRAGE

SECTION I -- GENERAL PRINCIPLES

Article 111 (Exercise of political power through suffrage)

In the exercise of political power, the people shall appoint, through universal, direct, secret and periodic ballot, the holders of the elective organs of political power.

Article 112 (Conversion of votes)

- 1. The conversion of votes into mandates in each plurinominal electoral college shall be made in conformity with the principle of proportionate representation.**
- 2. The provision of paragraph 1 shall not apply to the conversion of votes into mandates in the case of elective executive collegial organs for which the law may establish the majority principle.**

Article 113 (Presentation of candidature)

- 1. The candidatures shall be presented, isolated or in coalition, by the political parties, should the latter be registered until the date for the presentation of candidatures and, in the case of the elections for local administration, also by groups of citizens.**
- 2. The parties, coalitions or groups of citizens shall not present in each electoral circle more than one list of candidates.**
- 3. No one shall be a candidate in more than an electoral circle or be enrolled in more than one list.**

The non-observance of this provision shall entail the disqualification.

Article 114 (Immunity of the candidates)

- 1. No candidate shall be subjected to preventive imprisonment except in case of flagrante delicto for a crime punishable with an imprisonment penalty whose maximum limit exceeds two years and, in the absence of flagrante delicto, for a crime punishable with a penalty whose maximum limit exceeds eight years of imprisonment**
- 2. Once criminal proceedings are initiated against any candidate or should the candidate be accused by the indictment decision or equivalent, the process shall only continue after the announcement of the election results.**

Article 115 (Elections)

- 1. The date for the holding of the ballot for the appointment of the elective holders of the organs of political power shall be fixed in accordance with the**

Constitution and the law and the election date shall be the same in all the electoral circles, except in the cases provided for by law.

2. The date for the new elections shall be specified in the act of the dissolution of the collegial organs which are based on direct ballot and the new elections shall take place in the following one hundred and twenty days under the electoral law in force at the time of dissolution. Failure to do so shall render the elections as null and void.

Article 116 (Equality of treatment)

The parties, coalitions and groups of citizens, as well as the candidates proposed by them, have the right to equal treatment on the part of public entities with a view to undertaking their electoral campaign under the best possible condition.

SECTION II -- THE ELECTION OF THE PRESIDENT OF THE REPUBLIC

Article 117 (Election)

1. The President of the Republic shall be elected by universal, direct and secret ballot, by the electors registered in the electoral census in the national territory and abroad, in accordance with the law.

2. For the purposes of the election of the President of the Republic each elector registered in the census abroad shall have one vote and the total of such votes shall be the equivalent to a maximum of one fifth of the votes obtained in the national territory.

3. If the total votes of the electors registered in the electoral census abroad is higher than the limit referred to in the last part of the preceding paragraph, such total shall be converted into a number equal to this limit and the totality of the votes obtained by each candidate shall be converted in the respective proportion.

4. A special law will regulate the election of the President of the Republic.

Article 118 (Eligibility)

1. The person to be elected as President of the Republic shall be an elector who is a Capeverdean citizen by origin, thirty five or more years of age on the date of his candidature and who, in the three years immediately preceding that date, has taken permanent residence in the national territory.

2. Starting from the public announcement of his candidature until the date of his withdrawal or of the official proclamation of the electoral results, no candidate shall exercise any function in the organs of sovereignty or hold the office of General Prosecutor of the Republic, Chief or Vice- Chief of Staff of the Armed Forces.

3. In the case referred to in the preceding paragraph the candidate shall be automatically suspended from the exercise of his functions which shall be

assigned, ad interim, to his substitute, if any, and the candidate will resume those functions, without any formality, commencing from the date of his withdrawal or in case he is not elected.

4. During the period of suspension of his functions the candidate shall continue to receive his salary and his time of service shall not be interrupted for retirement purposes or for any other purpose.

Article 119 (Candidatures)

1. The candidatures for the President of the Republic shall be proposed by a minimum of one thousand and a maximum of four thousand electors and shall be presented to the Supreme Court of Justice until the sixtieth day preceding the date of the elections.

2. In case there are two competing candidates for the election, or in the event of death or incapacity of any of them for the exercise of the presidential function, the following shall be observed in the course of the first ballot:

a) Should the above mentioned death or incapacity occur before the closing of the polling stations, the electoral process shall be reopened in accordance with the law;

b) Should the death or incapacity occur after the closing of the polling stations, the electoral process shall be only reopened if, after the votes are counted, the other candidate does not obtain the absolute majority of the votes validly cast, in accordance with paragraph 1 of article 121.

Article 120 (Date of the elections)

1. The President of the Republic shall be elected between the fortieth and the twenty-fifth day before the expiration of the mandate of the out-going President.

2. In case of vacancy of the office, the new President of the Republic shall be elected in the ninety days following the vacancy.

Article 121 (Electoral system)

1. The candidate who obtains an absolute majority of votes validly cast, for which the blank votes are not taken into account, shall be considered as elected President of the Republic.

2. Should no candidate obtain the majority of votes referred to in the preceding paragraph, there shall be a second ballot, within fifteen days following the first ballot, in which only the two most voted candidates in the first ballot can run.

3. In case of death or incapacity for the presidential functions of any of the candidates running in the second ballot, the provisions of subparagraphs a) and b) of paragraph 2 of article 119 shall apply.

4. In case of the reopening of the electoral process of the second ballot pursuant to the provisions of subparagraphs a) and b) of paragraph 2 of article 119 the candidate who, maintaining his candidature, occupies the place immediately followed, in accordance with the electoral results, shall be called to run.

5. The withdrawal of any candidate in the second ballot shall entail the reopening of the electoral process, should that withdrawal be declared in the forty-eight hours following the announcement of the results of the first ballot.

6. Should there be no other candidate who, in accordance with paragraph 4, may be admitted to the second ballot or in case the withdrawal of one of the candidates is declared after the date referred to in paragraph 5, the other candidate shall immediately be considered as elected.

SECTION III -- ELECTION OF DEPUTIES TO THE NATIONAL ASSEMBLY

Article 122 (Suffrage by lists)

- 1. The Deputies shall be elected through plurinominal lists in each electoral college and each elector shall have a single vote on the list.**
- 2. The number of candidates on each list proposed for election should be equal to the number of the mandates ascribed to the respective electoral college.**
- 3. The number of alternate candidates shall not exceed the number of the mandates ascribed to the respective electoral college and such number shall never be less than three.**
- 4. The number of Deputies by each electoral college shall be proportionate to the number of electors registered and such number shall not be, however, less than a minimum established by law, without prejudice to the provision of paragraph 2 of Article 153.**

Article 123 (Distribution of the mandates within the lists)

The order of the candidates in each list shall be considered in accordance with the order of precedence indicated in the respective declaration of candidature and the mandates shall be ascribed in accordance the mentioned order of precedence.

Article 124 (Conditions of eligibility)

The Capeverdean citizens that are electors shall be eligible, without prejudice to the ineligibilities established by law.

CHAPTER IV -- POLITICAL PARTIES

Article 125 (Function of the parties and denominations)

- 1. The political parties shall contribute democratically for the formation of the political will of the people and for the organization of political power.**
- 2. The political parties shall not adopt denominations which, directly or indirectly, are identified with any part of the national territory, the church, religion or religious creed, or which may evoke the name of persons or institution, nor shall they adopt emblems which are similar to or can be confused with the national or regional symbols.**

Article 126 (Prohibition of parties of a local or regional ambit)

- 1. The creation of political parties of a local or regional ambit, which pursue programmatic objectives of the same ambit and purport to utilize subversive or violent means for the attainment of their goals or which has a paramilitary nature shall be prohibited.**
- 2. The political parties shall respect the national independence and unity, the territorial integrity, the democratic regime, the multiparty system and the fundamental rights and liberties of the human person.**

Article 127 (Abolition of parties)

The political parties can only be compulsory abolished by judicial decision and in the cases laid down by law.

Article 128 (Benefits)

The law will regulate the benefits to be granted by the State to political parties and will lay down the rules for the implementation of the remaining constitutional norms relative to political parties.

PART V -- THE ORGANIZATION OF THE POLITICAL PARTIES

TITLE I -- GENERAL AND COMMON PRINCIPLES

Article 129 (Organs of Sovereignty)

- 1. The organs of sovereignty shall be those that, as such, are typified in the Constitution.**
- 2. The political parties and the coalition of parties shall participate, depending on the cases and in accordance with their electoral representativeness, in the collegial organs of sovereignty that are elected by universal and direct ballot.**
- 3. The formation, the composition and the competence of the organs of sovereignty shall be defined in accordance with the Constitution.**

Article 130 (Principle of separation and interdependence of powers)

- 1. The basic organizational principle of the organs of sovereignty shall be the separation and the interdependence of powers.**
- 2. The organs of sovereignty, in their mutual relations and in the exercise of their functions, shall respect the separation and the interdependence of powers, as established in the Constitution.**

Article 131 (Types of Organs of Sovereignty)

The organs of sovereignty shall be:

- a) The President of the Republic;**
- b) The National Assembly;**
- c) The Government;**
- d) The Courts.**

Article 132 (Publicity of meetings)

- 1. The meetings of the National Assembly Plenum, as well as the meetings of the Municipal Assemblies and remaining organs of political power which function in assemblies shall be public and may be broadcast, directly, through radio or television, except in the cases expressly established by law.**
- 2. The records of the meetings of the above-mentioned organs shall be public.**

Article 133 (Quorum and simple majority)

- 1. The collegial organs shall only function and deliberate in the presence of the majority of the legal number of their members.**
- 2. The deliberations of the collegial organs shall be made by a majority of the votes, except in the cases in which the Constitution, the law or the respective Rules of Procedures require a qualified majority.**
- 3. For the purposes of ascertaining the majority, abstentions and negative or blank votes shall not be counted.**

Article 134 (Principle of renovation)

The holders of the elective organs of sovereignty, local power or other elective organs of political power shall not be appointed for life.

Article 135 (Responsibility of the holders)

- 1. The holders of political office are politically, civil and criminally responsible for their acts or omissions which they practice in the exercise of their functions and as a result of them, in accordance with the law.**

2. The crimes committed by the holders of political office shall be designated crimes of responsibility. The law shall define such crimes and establish the sanctions to be applied to them, as well as their effects which shall always include the forfeiture of the office or mandate and the incapacity of exercising political office for a period not less than ten years.

3. The holders of political office who are punished with the forfeiture of their office or mandate for the commission of serious illegality shall also be disqualified to exercise political functions for a period not less than five years.

Article 136 (Rights, privileges and immunity)

1. The holders of the organs of political power shall have the rights, liberties, privileges and immunities and be subject to the obligations established in the Constitution and by law.

2. The Constitution and the law shall define the responsibilities and the incompatibilities of the holders of the organs of political power.

TITLE II -- THE PRESIDENT OF THE REPUBLIC

CHAPTER I -- DEFINITION, MANDATE AND COMING INTO OFFICE

Article 137 (Definition)

1. The President of the Republic shall be the warrantor of the unity of the Nation and State, territorial integrity and national independence and he shall supervise and guarantee the compliance with the Constitution and international treaties.

2. The President of the Republic shall represent, internally and externally, the Republic of Cape Verde and shall be, "ex officio", the Commander-in-Chief of the Armed Forces.

Article 138 (Mandate)

1. The President of the Republic shall be elected for a period of five years, which shall commence on the date of his coming into office and terminate with the coming into office of the newly elected President.

2. In case of office vacancy the newly elected President shall commence a new mandate.

Article 139 (Coming into office and oath)

1. The President of the Republic shall take office before the National Assembly, on the last day of the mandate of his predecessor or, in the case of election by the vacancy of the office, on the fifth day following the publication of the electoral results.

2. During the swearing in ceremony the elected President of the Republic shall make the following pledge:

"I swear, on my honor, to carry out faithfully the functions of the President of the Republic of Cape Verde in which I am now invested, to defend, comply, and to make comply with the Constitution, to observe the laws and to guarantee the territorial integrity and national independence".

Article 140 (Renunciation of the Mandate)

- 1. The President of the Republic may renounce his mandate in message addressed to the country before the Plenum of the National Assembly, and which shall be published later on in the official journal of the Republic.**
- 2. The renunciation shall become effective as soon as the country takes cognizance of the message.**

CHAPTER II -- THE STATUTE

Article 141 (Incompatibilities)

- 1. The President of the Republic shall not hold any other political office or exercise any public function, unless in the cases expressly established in the Constitution, nor shall he, in any case, carry out any private functions.**

Article 142 (Absence from the national territory)

- 1. The President of the Republic shall not be absent from the national territory without the National Assembly's consent or, in case the latter is not in session, without the Permanent Commission's.**
- 2. In case of travel with no official character, whose duration is not more than fifteen days, the consent referred to in the preceding paragraph shall be dispensed with. The President of the Republic shall however give prior notice of such a travel to the National Assembly. . 3. The non-compliance with the provisions of paragraph 1 and 2 shall result in the forfeiture of the office.**

Article 143 (Substitution "Ad Interim")

- 1. In case of temporary impediment, absence abroad, as well as in cases of vacancy of the office and until the coming into office of the newly elected President, the President of the Republic shall be replaced, on an interim basis, by the President of the National Assembly or, on the impediment of the latter, by the First Vice-President of the National Assembly. ' 2. The mandate of the President of the National Assembly and of the First Vice-President of the National Assembly, in their capacity as Deputy, shall be automatically suspended, for the time that they exercise, on an interim basis, the functions of President of the Republic.**

Article 144 (Criminal responsibility)

1. The President of the Republic shall be responsible before the Supreme Court of Justice for the crimes committed in the exercise of his functions.

2. The National Assembly shall have the power to request the General Prosecutor of the Republic the initiation of penal action against the President of the Republic, on the proposal of twenty-five deputies, approved by a two-thirds majority of the deputies on active duty.

3. The President of the Republic shall be suspended from his functions from the date that the indictment or equivalent decision becomes "res judicata" and his condemnation shall immediately result in the forfeiture of his mandate and his removal from office, as well as his disqualification for re-election.

4. The President of the Republic shall respond before the lower courts for the crimes committed outside the exercise of his functions, after the cessation of his mandate.

Article 145 (Preventive imprisonment)

The President of the Republic under no circumstance shall be subject to preventive imprisonment.

Article 146 (Re-eligibility)

1. The President of the Republic shall not present his candidature for a third mandate in the five years immediately following the end of his second consecutive mandate.

2. Should the President of the Republic renounce the office, he shall not present his candidature for a new mandate in ten years following the date of his renunciation.

3. Should the President of the Republic abandon his functions or be absent from the national territory in violation of the provisions of paragraph 1 and 2 Article 142, he shall not be permitted to present again his candidature for the office, nor shall he exercise any other political office in the organs of sovereignty or of local administration.

CHAPTER III -- COMPETENCE

Article 147 (Competence of the President of the Republic)

1. The President of the Republic shall have the following powers:

a) To exercise the functions of the Commander-in-Chief of the Armed Forces;

b) To preside over the Council of the Republic;

c) To preside over the Supreme Council of the National Defense;

- d) To preside over the Supreme Council of the Honorary Orders;**
- e) To dissolve the National Assembly, once the provision of paragraph two Article 155 is observed and the political parties represented in the National Assembly are consulted;**
- f) To address messages to the National Assembly and to the Nation;**
- g) To fix the day for the election of the President of the Republic and for the Deputies of the National Assembly, in consultation with Council of the Republic and in accordance with the electoral law;**
- h) To convoke referenda at the national level and to fix the date for holding them;**
- i) To appoint the Prime Minister, in consultation with the political parties represented in the National Assembly and taking into account the results of the elections.**
- j) To appoint two members of the Council of the Republic;**
- k) To appoint the Chief Justice of the Supreme Court of Justice from amongst the judges of such court, in consultation with the Supreme Council of Magistrates;**
- l) To appoint one judge of the Supreme Court of Justice;**
- m) To appoint two members of the Supreme Council of Magistrates;**
- n) To grant an indult and to commute penalties in consultation with the Government;**
- o) To request, in consultation with the Council of the Republic, the President of the National Assembly the convening of extraordinary sessions of that organ of sovereignty to consider specific subject-matters;**
- p) To request the Supreme Court of Justice the preventive monitoring of the constitutionality or legality of the proposals for a referendum at the national level;**
- q) To request the Supreme Court of Justice the preventive evaluation of the constitutionality of international treaties;**
- r) To request the Supreme Court of Justice the monitoring of the constitutionality of the legal norms;**
- s) To exercise the right of political veto within thirty days from the date of the reception of any act for promulgation.**

2. The President of the Republic shall also have the following powers:

- a) To preside over the Council of Ministers, at the request of the Prime Minister;
- b) To promulgate and order the publication of the laws, legislative decrees, decree-laws and regulatory decrees;
- c) To dismiss the Government, in accordance with paragraph 2 of Article 214;
- d) To appoint and dismiss the members of the Government, on the proposal of the Prime Minister;
- e) To appoint, on the proposal of the Government, the President of the Court of Audit; f) To appoint, on the proposal of the Government, the General Prosecutor of the Republic;
- g) To appoint and dismiss, on the proposal of the Government, the Chief of Staff of the Armed Forces and, if such is the case, the Vice-Chief of Staff of the Armed Forces;
- h) To declare the state of siege or emergency, in consultation with the Government and after authorization by the National Assembly;

3. The President of the Republic, whenever he requests the convening of extraordinary sessions of the National Assembly, shall indicate clearly the specific subject-matters it shall consider and the period within which such convening shall take place. The President of the National Assembly shall proceed to convene the National Assembly, as requested, within the indicated period.

4. In the case referred to in sub-paragraph h) of paragraph 2, and if the National Assembly is not in session, nor is it possible to meet immediately, the authorization may be granted by its Permanent Commission. Such authorization shall however always be confirmed by the National Assembly Plenum in the first meeting following the date of the authorization.

Article 148 (Powers of the President of the Republic in international relations)

The President of the Republic shall have, in the field of international relations, the following powers:

- a) To ratify the international treaties and agreements, after they are validly approved;
- b) To declare war and to make peace, on the proposal of the Government, in consultation with the Council of the Republic and upon authorization of the National Assembly, or, when the latter is not in session, of its Permanent Commission;
- c) To appoint and terminate the assignment of Ambassadors, Permanent Representatives and Extraordinary Envoys, on the proposal of the Government;

d) To receive the full powers and accept the accreditation of foreign diplomatic representatives.

Article 149 (Veto)

1. Whenever the President of the Republic exercises his right of political veto he shall return the act to the organ which approved it, with the request, in a substantiated message, that it be submitted to new evaluation.

2. Should it be an act of the National Assembly, and this Assembly confirms, by an absolute majority of the deputies on active duty, the deliberation which approved it, within a period of one hundred twenty days from the date of the reception of the President's message, the President of the Republic shall be duty-bound to promulgate it within a period of eight days.

Article 150 (Promulgation and referenda)

1. The legislative or normative acts referred to in sub-paragraph b) of paragraph 2 of Article 147 shall be promulgated and signed by the President of the Republic. Failure to do so shall result in these acts being null and void.

2. The acts of the President of the Republic which should be practiced on the proposal of, or after consultation with, the Government shall be counter-signed by the Prime Minister. Failure to do so shall result in these acts being null and void.

3. The legislative acts of the Government, as well as the regulatory decrees shall also be counter-signed by the Prime Minister. Failure to do so shall result in these acts being null and void.

Article 151 (Acts of the Ad interim President of the Republic)

The Ad interim President of the Republic shall not practice the acts referred to in subparagraphs e), f), h), j) and l) of paragraph 1 and in subparagraphs e), f), j) and h) of paragraph 2 of Article 147.

TITLE III -- NATIONAL ASSEMBLY

CHAPTER I -- DEFINITION, COMPOSITION AND DISSOLUTION

Article 152 (Definition)

The National Assembly shall be the Assembly representative of all Capeverdean citizens.

Article 153 (Composition)

1. The National Assembly shall have a minimum of sixty six and maximum of seventy two deputies, elected in accordance with the Constitution and the law.

2. The totality of the electoral circles outside the national territory shall have six deputies to be shared amongst them, in accordance with the law.

Article 154 (National Assembly election)

The election for the National Assembly shall take place on the day between a period which shall commence four years and 11 months after the date of the previous election and shall terminate five years and fifteen days after the same date, save in the case of the its dissolution.

Article 155 (Dissolution)

1. The National Assembly shall be dissolved whenever, in the same legislature:

a) It rejects two confidence motions to the Government;

b) It approves four motions of censorship against the Government;

2. The National Assembly may also be dissolved in case of serious institutional crisis, whenever such dissolution becomes necessary for regular functioning of the democratic institutions. Such act of dissolution shall be preceded by favorable advice of the Council of the Republic. Failure to do so shall result in such act being null and void.

Article 156 (Prohibition of dissolution)

1. The National Assembly shall not be dissolved in the twelve months following its election; in the year preceding the end of the mandate of the President of the Republic; in case of and during the state of siege or emergency and until the thirtieth day following its cessation; or, also, after the presentation of a motion of confidence or censorship and until the tenth day following the day of the voting on the motion.

2. The act of the dissolution practiced in violation of the provision of the preceding paragraph shall be null and void.

3. The dissolution shall not put an end to the mandate of the deputies nor shall it prejudice the continued existence, competence and functioning of the Permanent Commission until the opening of the constitutive session of the newly elected Assembly.

CHAPTER II -- ORGANIZATION

Article 157 (Composition of the Bureau)

1. The Bureau of the National Assembly shall consist of the President, a First Vice-President, a Second Vice-President and two Secretaries elected in accordance with the Rules of Procedure of the Assembly.

- 2. The President and the Secretaries shall be elected on the proposal sponsored by a minimum of fifteen and a maximum of twenty deputies.**
- 3. The posts of First and Second Vice-Presidents shall be allocated to the two major parties or political forces represented in the Assembly.**
- 4. The members of the Bureau of the National Assembly shall be elected for the whole legislature, in accordance with Rules of Procedure of the National Assembly.**
- 5. The members of the Bureau, for the time that they exercise their functions, shall not participate in the leadership of the parliamentary groups, nor shall they integrate any specialized or Ad Hoc commissions.**

Article 158 (Extended existence of the Bureau)

The Bureau of the National Assembly, at the end of the legislature or in case of the dissolution of the latter, shall remain in function until the opening of the constitutive session of the newly elected Assembly.

Article 159 (Commissions)

- 1. The National Assembly shall have a Permanent Commission and Specialized Commissions, and may also set up Ad Hoc Commissions and Commissions of Inquiry into the acts of the Government or Public administration and for other purposes that may be specifically determined.**
- 2. The composition of the commissions, with exception of the Permanent Commission, shall be in accordance with the representativeness of each political party or force represented in the National Assembly.**
- 3. The remaining aspects of the composition, competence and functioning of the commissions shall be regulated by the Rules of Procedure of the National Assembly.**

Article 160 (Permanent Commission)

- 1. The Permanent Commission shall function during the period in which the National Assembly is dissolved, in the intervals of the session and, in other cases, in accordance with the Constitution.**
- 2. The Permanent Commission shall consist of the President of the National Assembly who shall preside, the Vice- Presidents and Secretaries of the Bureau and by one representative of each parliamentary group.**
- 3. In case a political party or force represented in the Assembly does not have a parliamentary group, a representative of such party or force shall be a member of the Permanent Commission.**

4. The representatives referred to in the preceding paragraph shall have in the Permanent Commission a number of votes equal to the number of deputies that they represent.

5. The Permanent Commission shall have the following powers:

a) To exercise the powers of the National Assembly related to the mandates of the deputies:

b) To follow up on the activities of the Government and the Administration;

c) To give consent for the President of the Republic to be absent from the national territory;

d) To authorize the President of the Republic to declare the state of siege or emergency, to declare the war and to make peace.

6. At the end of the legislature or in case of the National Assembly dissolution, the Permanent Commission shall remain in functions until the opening of the constitutive session of the newly elected Assembly.

Article 161 (Parliamentary Groups)

1. The Parliamentary groups shall consist of a minimum of five deputies.

2. No deputy shall belong to more than one parliamentary group.

3. The organization, the functioning and the powers of the parliamentary groups shall be regulated by the Rules of Procedure of the National Assembly.

CHAPTER III -- FUNCTIONING

Article 162 (Legislature)

1. The National Assembly shall be elected for a period of five years.

2. The legislature shall commence with the first meeting of the National Assembly after the elections and terminate with the first meeting of the newly elected Assembly.

3. In case of dissolution, the newly elected Assembly shall commence a new legislature.

Article 163 (Legislative Sessions)

The number of ordinary legislative sessions shall be determined by the Rules of Procedure of the National Assembly and shall not be less than two per year.

Article 164 (Meeting on its own right)

1. The National Assembly shall meet on its own right on the date established for the commencement of the legislature and for each legislative session, as well as while the state of siege or emergency is in force.

2. If the meeting of the National Assembly can not take place while the state of siege or emergency is in force, or should the Assembly be dissolved on the date of the declaration of the state of siege or emergency, its powers shall be automatically assumed by the Permanent Commission.

Article 165 (First meeting after election)

The National Assembly shall meet to commence its legislature on the twentieth day following the publication of the electoral results in the official journal of the Republic.

Article 166 (Extraordinary meeting)

1. The National Assembly may meet in special sessions, other than during the normal period of functioning, in cases of war, state of siege or emergency or to consider the programme of the Government and to deal with urgent and specific matter of relevant national interest.

2. The Assembly may also be convened extraordinarily at the request of the President of the Republic to consider specific subject matters, in accordance with subparagraph p) of paragraph 1 and paragraph 3 of article 147.

The National Assembly shall only consider, during the special sessions, specific subject-matters that are mentioned in the convocation.

Article 167 (Agenda)

1. The agenda of each legislative session shall be determined by the President of the National Assembly in consultation with the Conference of Representatives of the Parliamentary Groups, in conformity with the priority given to the subject matters as defined in the Rules of Procedure of the National Assembly, without prejudice to appeal to the Assembly's Plenum.

2. The parliamentary groups shall have the right to determine the agenda of at least a Plenum meeting in each ordinary legislative session in accordance with the Rules of Procedure of the National Assembly.

3. The Government may request priority for subject matters of national interest that require urgent resolution.

Article 168 (Participation of the Government in the activities of the National Assembly)

1. The Prime Minister, and the Vice-Prime Ministers, should the office of the latter exist, as well as the Ministers shall have the right to be present in the

Plenum meetings of the National Assembly, and they may take the floor in accordance with the Rules of Procedure of the latter.

2. Meetings for questions to be addressed to the Government through oral or written requests or for points of clarifications may be scheduled.

3. The presence of the member or members of the Government in the meetings referred to in the preceding paragraph and for whose attendance they have been convoked, shall be obligatory. The Prime Minister, however, may be replaced by the Vice-Prime Minister, if any, or, in the case of the Minister, by a Minister of State.

CHAPTER IV -- FORMATION OF ACTS

SECTION I -- INITIATIVE OF LAW REFERENDUM

Article 169 (Legislative initiative and referendum)

1. The Deputies, the Parliamentary groups and the Government shall have legislative initiative.

2. The Deputies and the Parliamentary Groups, as well as the Government shall have the power to table the initiative of a referendum.

3. The legislative and the referendum initiatives of the Deputies and Parliamentary Groups shall take the form of draft law and proposal for referendum, respectively.

4. The Government's legislative initiative shall take the form of proposal of law.

5. The Deputies and the Parliamentary Groups shall not introduce:

a) Draft laws which involve, directly or indirectly, the increase of expenditures or the diminution of revenues forecast in the State budget or which modify it in any way during the economic year in which it is being implemented.

b) Proposals of referendum which violate the provision of paragraph 3 of Article 108;

c) Draft laws or proposals for referendum that are clearly unconstitutional or illegal.

6. The draft laws and the proposals of law of substantially identical content, which purport to regulate matters that are subject to the same factual circumstances and which have been rejected definitively, shall not be renewed in the three subsequent legislative sessions.

Article 170 (Approval and obsolescence of Proposals of Law and Referendum)

1. The draft laws may be approved until the end of the legislature.

- 2. The proposals of law shall become obsolete with the dismissal of the Government.**
- 3. The draft laws and the proposals of law, as well as the proposal for referendum shall become obsolete with the dissolution of the National Assembly or at the end of the legislature.**
- 4. Upon the approval of draft laws and proposals of law after the final global voting, they come to be designated as Legislative Acts.**
- 5. The legislative acts shall be sent to the President of the Republic for promulgation.**

Article 171 (Initiative of Resolution and Motions)

- 1. The initiative to table a resolution shall belong to the Deputies and also:
 - a) to the Bureau of the National Assembly in the cases established by law;**
 - b) to the Government, in the approval of international treaties and agreements.****
- 2. The resolution which authorizes the President of the Republic to declare the state of siege or emergency and to be absent from the national territory shall be adopted on the basis of a substantiated request by the President of the Republic addressed to the National Assembly.**
- 3. The initiative to present motions shall belong to the deputies and, in respect to motions of confidence, also to the Government.**

SECTION II -- DISCUSSION AND VOTING

Article 172 (Discussion and Voting)

- 1. The discussion of the draft laws and proposals of law, as well as proposals of referendum shall encompass a general debate and a debate on specifics.**
- 2. The voting on draft laws and proposals of law, as well as proposals of referendum shall encompass a vote on the generality, a vote on specifics and a final global vote.**
- 3. On the deliberation of the Plenum of the National Assembly, the draft laws and proposals of law may be voted on specifics by the Specialized Commissions, without prejudice to the power of the National Assembly to proceed to the final global vote, which shall be focused on the text already voted on specifics by the Specialized Commission.**
- 4. The draft Constitutional laws, the draft laws and the proposals of organic and framework laws shall be obligatorily voted on specifics by the Plenum of the National Assembly.**

Article 173 (Qualified Majority)

- 1. The draft Constitutional Laws shall be approved by a majority of two-thirds of the deputies on active duty.**
- 2. The draft laws and proposals of law, without prejudice to the provision of the following paragraph shall be approved by an absolute majority of the deputies on active duty.**
- 3. The draft organic laws and proposals of organic law which deal with the subject-matters referred to in sub paragraph c), g), h) and i) of paragraph 1 of Article 187 shall be approved by a majority of two-thirds of deputies present, should that majority of two-thirds be higher than the majority of deputies on active duty.**

CHAPTER V -- STATUTE OF THE DEPUTIES

Article 174 (Nature and ambit of representation)

The deputies shall be the representatives of all the people and not only of the electoral circles through which they were elected.

Article 175 (Commencement and termination of Mandate)

- 1. The mandate of the deputies shall commence with the first meeting of the National Assembly after the election and shall terminate with the first meeting after the next election, without prejudice to a concrete suspension or cessation of the mandate.**
- 2. The statute of the Deputy will regulate the suspension, substituting, renunciation and forfeiture of the mandate.**

Article 176 (Incompatibilities)

The function of the Deputy shall be incompatible with that of:

- a) **The member of the Government;**
 - b) **Magistrate;**
 - c) **Member of the Council of the Republic, except when exercising the functions of the President of the National Assembly;**
 - d) **Diplomat;**
 - e) **Member of the military on active duty.**
- 2. The law will determine the remaining incompatibilities.**

Article 177 (Exercise of functions of Deputy)

- 1. The public and private entities shall have the duty to provide the Deputies all the necessary collaboration and to cooperate with them in the exercise of their functions.**
- 2. All the necessary conditions shall be granted to the Deputies for the exercise of their functions, namely, to maintain close contact with electoral circle through which they were elected and with the electors.**
- 3. The absence of deputies from official acts or occasions that are not related to their functions, due to meetings or missions of the National Assembly, shall always be considered as justified and shall be a cause for the postponement of such acts or occasions.**
- 4. The mandate of the Deputy arrested in flagrante delicto for crime punishable with imprisonment penalty, the maximum limit of which is more than two years, shall be automatically suspended, from the date of the communication of such fact to the National Assembly.**

Article 178 (Rights and privileges of Deputies)

- 1. The Deputies shall not depose as experts or witnesses without authorization by the National Assembly or, when the latter is not in session, by its Permanent Commission.**
- 2. The Deputies shall also enjoy the following rights and privileges:**
 - a) Free passage in public places of restricted access;**
 - b) Specific identification card;**
 - c) Postponement of the military or civic service;**
 - d) Subsidy established by law;**
 - e) Any other right and privilege established in the Statute of the Deputies.**

Article 179 (Powers of the Deputies)

The Deputies shall have the power:

- a) to present drafts for the revision of the Constitution;**
- b) to present draft laws, proposals of referendum, resolutions, motions and deliberations;**
- c) to request the ratification of legislative decrees;**
- d) to request and obtain from the Government and from the organs of the Administration or from any other public entity, pieces of information and useful**

publications which they consider indispensable for the exercise of their functions;

e) to pose question and interpellate the Government, the Public Administration or any public entity and obtain response within a reasonable period;

f) to request the setting up of Ad Hoc Commissions, in accordance with the Rules of Procedure of the National Assembly;

g) any other power referred to in the Rules of Procedure of the National Assembly and the Statute of the Deputies.

Article 180 (Duties of the Deputies)

The Deputies shall have the following duties:

a) To attend the meetings of the Plenum of the National Assembly and of the Commissions to which they belong;

b) To carry out the responsibilities and functions for which they are designated by the National Assembly;

c) To participate in the vote and in the work of the National Assembly;

d) Any other responsibility referred to in the Rules of Procedure of the National Assembly and in the Statute of the Deputies.

Article 181 (Immunities)

1. The Deputies and the parliamentary groups shall not be civil, criminally or disciplinarily responsible for the votes they cast and the opinions they expressed in the exercise of their functions.

2. No Deputy can be detained or imprisoned without the authorization of the National Assembly, unless in case of flagrante delicto for crime punishable with imprisonment penalty whose maximum limit is more than two years and, in the absence of flagrante delicto, for crime punishable with a penalty whose maximum limit is more than eight years of imprisonment.

3. Should criminal proceedings be initiated against any deputy and should he be definitively indicted, the National Assembly shall decide if the deputy should or should not be suspended for the purposes of the continuation of the case, without prejudice to the situation referred to in the second part of paragraph 2.

Article 182 (Forfeiture of Mandate)

1. The Deputy shall forfeit his mandate if:

a) he does not attend the work of the National Assembly during the number of meetings or he exceeds the number of absences established in the Rules of Procedure of the National Assembly;

b) he refuses three times in a row or five interpolated times to discharge the responsibilities and functions for which he is designated by the National Assembly, if the latter does not consider the refusal as justified;

c) he is condemned judicially with imprisonment penalty for the practice of any voluntary crime;

d) he enrolls in a political party different from the one through which they were elected.

2. Any ineligibility that existed at the date of the election and that became known later on, should such ineligibility persist, as well as the incompatibilities and disqualifications established by law, shall also entail the forfeiture of the mandate.

CHAPTER VI -- COMPETENCE OF THE NATIONAL ASSEMBLY

SECTION I -- COMPETENCE FOR THE PRACTICE OF ORGANIZATIONAL AND FUNCTIONAL ACTS

Article 183 (Organizational and functional power of the National Assembly)

The National Assembly shall have the power:

a) To elaborate and approve its Rules of Procedure;

b) To elect by an absolute majority of the Deputies on active duty, its President, Vice- Presidents and the Secretaries;

c) To establish its Permanent Commission, Specialized Commissions and Ad Hoc Commissions;

d) To exercise any other power which is conferred upon it by its Rules of Procedure.

Article 184 (Powers of the President)

The President of the National Assembly shall have the power:

a) To represent the National Assembly and preside over its Bureau;

b) To fix the dates of the Plenum meetings and to set the agenda, in accordance with the Rules of Procedure;

c) To exercise any other power laid down in the Constitution and in the Rules of Procedure of the National Assembly.

Article 185 (Powers of Commissions and Parliamentary Groups)

The Commissions and Parliamentary Groups shall have the powers established in the Constitution and in the Rules of Procedure of the National Assembly.

SECTION II -- LEGISLATIVE AND POLITICAL POWER

Article 186 (General legislative power)

The National Assembly shall have the power:

- a) to approve the Constitutional Laws;**
- b) to legislate, through laws, on all matters, except on matters that fall within the exclusive power of the Government;**
- c) to grant legislative authorization to the Government;**
- d) to consider for the purposes of ratification the legislative decrees of the Government, in accordance with the Constitution.**

Article 187 (Legislative power absolutely reserved)

1. The National Assembly shall have exclusive power to legislate, through laws, on the following matters:

- a) acquisition, loss and re-acquisition of nationality;**
- b) amnesty, generic pardons, indult and commutation of penalties;**
- c) national and local referendum;**
- d) services of information, as well as State secret;**
- e) procedure for the monitoring of constitutionality;**
- f) organization of the National Defense;**
- g) state of siege or emergency;**
- h) political parties and the statute of the opposition;**
- i) elections of the holders of the organs of sovereignty, local administration and remaining organs of political power elected through universal, direct and periodic ballot;**
- j) definition of the limit of territorial waters, economic exclusive zone and the seabed;**

- k) statute of the organs of sovereignty, of local power and of the organs of political power or of those elected by direct or universal ballot;**
- l) restrictions to the exercise of rights by the military, militarized agents and police forces on active duty;**
- m) form and hierarchy of regulations referred to subparagraph b) of article 288.**

2. The National Assembly shall also have the exclusive power to enact framework laws on the following:

- a) taxes and fiscal system;**
- b) creation, organization, territorial modification and abolition of local administration;**
- c) social security and health systems;**
- d) system of education;**
- e) system of protection of nature, natural resources, historical and cultural heritage, property and means of production;**
- f) preparation and organization of the State budget and the budget of the local administration;**
- g) planning system and national development plan.**

Article 188 (Legislative power relatively reserved)

The National Assembly shall have the exclusive power to enact laws in the following matters, except in cases of legislative authorization granted to the Government:

- a) rights, liberties, and guarantees;**
- b) state and capacity of persons, Family and Estate Laws;**
- c) definition of crimes, penalties and measures of security and respective constituent elements, as well as the criminal procedures,**
- d) organization of the courts and the statute of the magistrates;**
- e) guidelines for disciplinary infractions and penalties, regulatory offences and respective procedures;**
- f) general regime of the civil service, the statute of the civil servant and the civil responsibility of the State;**
- g) general guidelines for the organization of the Public Administration;**

- h) monetary system and pattern of weights and measurements;**
- i) financial and banking system;**
- j) trade union law and right to strike;**
- k) general guidelines for the organization, functioning and discipline of the Armed Forces and Police;**
- l) general guidelines of the statute of public enterprises;**
- m) rural and urban leasing;**
- n) public associations;**
- o) extrajudicial and judicial guarantees of the administrators;**
- p) requisition and expropriation for reasons of public interest;**
- q) general regime of radio broadcast, television and the remaining media;**
- r) compulsory military or civic service and conscientious objections;**
- s) general regime of intervention and expropriation of the means of production and land, determination of criteria for compensation, privatization of public assets and enterprises.**

Article 189 (Power in relation to Budget, Plan and auditing)

The National Assembly shall have the power:

- a) to approve the State budget and the major options of the Plan;**
- b) to receive and consider the general accounts of the State and other public entities that the law may determine, which shall be presented until the thirty-first of July of the following year accompanied by the report and advice of the Court of Audit and all remaining elements necessary for their consideration;**
- c) to consider the annual report on the implementation of the plans, which shall be received until the thirty-first of March of the following year.**

Article 190 (Approval of treaties)

The National Assembly shall have the power to approve:

- a) the treaties which deal with matters falling within its absolute legislative power or which are relatively reserved to it;**

b) the treaties on the participation of Cape Verde in international organizations, treaties of friendship and on peace, defence, military matters and any other treaty that the Government may wish to submit to it;

c) the approval of any treaty dealing with matters that fall within its absolutely or relatively reserved powers, as well as the renunciation of these treaties.

Article 191 (Political Competence)

1. The National Assembly, in the exercise of its function of general political monitoring, shall have the power:

a) to monitor the compliance with the Constitution and the law;

b) to monitor the implementation of the state of siege or emergency.

2. The National Assembly, in the exercise of its functions of general political monitoring, shall have the power:

a) to authorize the President of the Republic to declare war and to make peace;

b) to authorize or ratify the declaration of state of siege or emergency, in accordance with subparagraph h) of paragraphs 2 and 4 of article 147;

c) to authorize the absence of the President of the Republic from the national territory.

3. The National Assembly, in the exercise of its functions of political monitoring and of authorization, shall have the power:

a) to consider the programme of the Government and the report on its activities;

b) to vote motions of confidence in and of censorship against the Government;

c) to pose questions to and interpellate the Government;

d) to monitor the acts of the Government and of the Public Administration;

e) to authorize the Government, through the definition of general conditions, to borrow and lend money and undertake other credit operations which are not fluctuating debt and to set the maxim limit of the guarantees to be granted by the Government in each economic year;

f) to exercise any other power which are conferred upon it by the Constitution and by law.

Article 192 (Competence in relation to other organs)

The National assembly shall have in relation to other organs the power:

- a) To bear witness to the coming into office and the renunciation of the President of the Republic;
- b) To request the General Prosecutor of the Republic the exercise of the penal action against the President of the Republic in accordance with article 144;
- c) To propose to the President of the Republic the holding of referendum, in accordance with article 108 and paragraph 4 of article 109;
- d) To request the General Prosecutor of the Republic the exercise of penal action against members of the Government in accordance with article 211.
- e) To elect two members of the Council of the Republic;
- f) To elect one judge of the Supreme Court of Justice and three members of the Supreme Council of Magistrates;
- g) To elect the members of the other organs of political power whose appointment is constitutionally conferred upon it;
- h) To exercise other powers conferred upon it by the Constitution and by law.

Article 193 (Regime of legislative authorizations)

1. The laws of legislative authorization shall only deal with matters of legislative competence which are relatively reserved to the National Assembly and shall establish the object, the extension and the duration of the authorization, which may be prorogated.
2. The laws of legislative authorization shall not be used more than once, without prejudice of its use by parts.
3. The laws of legislative authorization shall become obsolete with the termination of the legislature, the dissolution of the National Assembly or with the dismissal of the Government and may be revoked by the National Assembly.
4. The Government shall publish the authorized legislative act until the last day of the period indicated in the law of authorization which shall start on the date of the publication of the latter.

Article 194 (Processes of urgency)

1. The National Assembly may, upon request of fifteen Deputies of any parliamentary group, or upon request of the Specialized Commissions or of the Government, declare the urgency in the processing of any draft or proposal of law or proposal of resolution.
2. The National Assembly Plenum shall have the power to pronounce itself on the issue of urgency.

Article 195 (Ratification of legislative Decree)

- 1. Five deputies at least or any parliamentary group may request the submission of any legislative decree to the ratification by the National Assembly, in the two Plenum meetings of the second legislative session following the publication of such legislative decree.**
- 2. The National Assembly shall not suspend the legislative decree under consideration.**

TITLE IV -- THE GOVERNMENT

CHAPTER I -- FUNCTION, POLITICAL RESPONSIBILITY, COMPOSITION AND ORGANIZATION

SECTION I -- FUNCTION AND RESPONSIBILITY

Article 196 (Function)

The Government shall be the organ which defines, directs and executes the internal and the foreign general policy of the country and shall be the supreme organ of the Public Administration.

Article 197 (Responsibility of the Government)

The Government shall be politically responsible before the National Assembly.

SECTION II -- COMPOSITION AND ORGANIZATION

Article 198 (Composition)

- 1. The Government shall consist of the Prime Minister, the Ministers and the State Ministers.**
- 2. One or more Vice-Prime Ministers may be appointed.**
- 3. The Government shall have a Council of Ministers as its collegial organ.**

Article 199 (Council of Ministers)

1. The Council of Ministers shall consist of the Prime Minister, the Vice-Prime Ministers, if any, by the Ministers and shall be presided and coordinated by the Prime Minister. 2. The Prime Minister may, whenever he so decides, or upon the deliberation of the Council of Ministers, convoke the State Ministers to participate, without the right of vote, in the meetings of Council of Ministers.

Article 200 (Specialized Council of Ministers)

- 1. There may be specialized Council of Ministers "ratione materiae".**

- 2. The specialized Council of Ministers shall have the function of coordination and preparation of matters for the deliberation of the Council of Ministers, and may exercise regulatory and administrative functions should such be decided previously by the latter.**
- 3. The specialized Council of Ministers shall be presided by the Prime Minister, Vice-Prime Minister or by a Minister indicated for that purpose, and the competent Minister or State Minister may participate therein.**
- 4. The high officials of the State who, for that purpose, are convoked by the respective Presidents may participate without the right of vote, in the meetings of the specialized Council of Ministers,**

Article 201 (Organization of the Ministries and State Ministries)

The number, designation, structure and functions of the Ministries and State Ministries, as well as the processes of coordination among them shall be established by decree law.

Article 202 (Substitution)

- 1. The Prime Minister shall be replaced in his impediments and absences by the Vice-Prime Minister or, if the office of the latter does not exist, by the Minister indicated by the former to the President of the Republic.**
- 2. In the absence of indication or in the case of vacancy, and should there be no office of the Vice-Prime Minister, the President of the Republic shall have the power to designate a Minister to replace the Prime Minister.**
- 3. Each Minister shall be replaced, in his impediments and absences, by the Minister of State that the Prime Minister indicates, or in the absence of such indication or should there be no Minister of State, by the member of the Government designated by the Prime Minister.**

CHAPTER II -- COMMENCEMENT AND TERMINATION OF THE FUNCTIONS OF THE GOVERNMENT

Article 203 (Commencement and termination of the functions of the Government)

The Government shall commence its functions with the coming into office of the Prime Minister and the Ministers and shall terminate with the dismissal, renunciation, death, permanent physical or mental incapacity of the Prime Minister.

Article 204 (Commencement and termination of the functions of the members of the Government)

- 1. The Prime Minister shall commence his functions with his coming into office and terminate them with his dismissal, at his request, by the President of the Republic, or following the dismissal of the Government.**
- 2. The out-going Prime Minister shall cease functions on the date of the appointment and the coming into office of the new Prime Minister.**
- 3. The functions of the Ministers shall commence with their coming into office and shall terminate with their renunciation or with the Prime Minister's.**
- 4. The functions of the Ministers of State shall commence with their coming into office and shall terminate with their renunciation or with the renunciation of their respective Ministers.**
- 5. The Prime Minister who abandons the exercise of his functions before the appointment and the coming into office of the new office holder shall not be appointed for governmental functions within ten years from the date of the abandonment.**

Article 205 (Transition Government)

- 1. In case of the dismissal of the Government it shall remain in function until the appointment and the coming into office of the new Prime Minister.**
- 2. Before the approval of its programme by the National Assembly, or after its dismissal, the Government shall limit itself to the practice of acts that are strictly necessary to the day-to-day management of public affairs and of ordinary administration.**

CHAPTER III -- FORMATION AND CONTINUATION OF THE GOVERNMENT

SECTION I -- FORMATION

Article 206 (Formation)

- 1. The Prime Minister shall be appointed by the President of the Republic in consultation with the political forces represented in the National Assembly and taking into account the electoral results, the existence or the non-existence of a political force which has a majority and the possibilities of coalitions and alliances.**
- 2. The Ministers and the Ministers of States shall be appointed by the President of the Republic on the proposal of the Prime Minister.**

Article 207 (Solidarity of the Members of the Government)

The members of the Government shall be duty-bound by the programme of the Government and by the deliberations of the Council of Ministers and shall be solidary and politically responsible for the programme's execution.

Article 208 (Preparation of the programme of the Government)

- 1. The Government shall, once it is appointed, draw up its programme which shall specify the goals and tasks which it intends to carry out, the measures to be adopted and the main political orientations which it purports to undertake in all areas of governmental activities.**
- 2. The programme of the Government shall be approved in meeting of the Council of Ministers and shall be submitted to the National Assembly for consideration.**

Article 209 (Consideration of the programme of the Government by the National Assembly)

The Prime Minister shall submit the programme of the Government for consideration of the National Assembly, within a period of not more than fifteen days, from the date of the commencement of the functions of the Government and shall compulsorily request the Assembly the approval of a motion of confidence exclusively on the general policy the Government intends to carry out.

SECTION II -- POLITICAL AND CRIMINAL RESPONSIBILITY OF THE MEMBERS OF THE GOVERNMENT

Article 210 (Political responsibility of the members of the Government)

- 1. The Prime Minister shall be politically responsible before the National Assembly.**
- 2. The Vice-Prime Minister and the Ministers shall be responsible before the Prime Minister and, in the ambit of the political responsibility of the Government, before the National Assembly.**
- 3. The Ministers of State shall be politically responsible before the Prime Minister and the respective Ministers.**

Article 211 (Criminal responsibility of the members of the Government)

- 1. The members of the Government shall be accountable for the crimes committed in the exercise of their functions before the Supreme Court of Justice, in accordance with the following:**
 - a) The National Assembly shall have power to request the General Prosecutor of the Republic the exercise of penal action against the member of the Government, in case of crime punishable with imprisonment penalty of not more than two years, and should the member of the Government be accused by indictment decision or equivalent, it shall decide if he should or should not be suspended for the purposes of the continuation of the case;**
 - b) The National Assembly shall have the power to request the General Prosecutor of the Republic the exercise of penal action against the member of the**

Government, in case of crime punishable with imprisonment penalty of more than two years, and if he is accused by a "res judicata" indictment decision or equivalent, the President of the Republic shall immediately suspend the member of the Government from the exercise of his functions for the purposes of the continuation of the case.

2. The member of the Government shall be accountable before the courts for the crimes committed outside the exercise of his functions. The provisions of subparagraphs a) and b) of the preceding paragraph shall be observed.

SECTION III -- MOTION OF CONFIDENCE, CENSORSHIP AND DISMISSAL OF THE GOVERNMENT

Article 212 (Motion of confidence)

1. The Government, by deliberation of the Council of Ministers, may request the National Assembly, at any time, a motion of confidence on the political orientation which it purports to follow or on any matter of relevant national interest.

2. The Government, on the deliberation of the Council of Ministers, may withdraw the motion of confidence until the commencement of its discussion in the National Assembly.

Article 213 (Motion of censorship)

1. The National Assembly may, at the initiative of one fifth of the Deputies or any Parliamentary Group, vote on motions of censorship against the Government on the general policy or on any matter of relevant national interest.

2. The motion of censorship shall be substantiated.

3. The motion of censorship shall only be considered on the third day following its presentation and its debate shall not take more than four days.

4. Should the motion not be approved, its sponsors shall not present another one in the next four legislative sessions.

Article 214 (Dismissal of the Government)

1. The following shall entail the dismissal of the Government:

a) The commencement of a new legislature and the dissolution of the National Assembly;

b) The acceptance by the President of the Republic of the letter of resignation tendered by the Prime Minister;

c) The death or the permanent physical and mental incapacity of the Prime Minister;

d) The non-submission of its programme for approval by the National Assembly or the non- submission, together with the programme of the Government, of the motion of confidence on the general policy which it purports to carry out;

e) The non-approval of a motion of confidence;

f) The approval of two motions of censorship in the same legislature.

2. The President of the Republic may dismiss the Government in case of the approval of a motion of censorship, after consultation with the parties represented in the National Assembly and with the Council of the Republic.

CHAPTER IV -- POWERS OF THE GOVERNMENT

Article 215 (Political powers)

The Government, meeting in Council of Ministers, in the exercise of its political functions, shall have the power:

a) To define, approve and implement the general policy of the country;

b) To approve proposals of law and of resolutions to be submitted to the National Assembly;

c) To approve proposals of referendum and present them to the President of the Republic;

d) To propose to the President of the Republic the declaration of the state of siege or emergency and to pronounce itself on this matter whenever the President of the Republic has the intention of declaring them;

e) To propose to the President of the Republic the declaration of war and the making of peace;

f) To take the measures that in accordance with the Constitution and the law may be necessary in case of the declaration of war, state of siege or emergency;

g) To approve and present to the National Assembly the general accounts of the State and of other public entities, as well as the annual report, in accordance with subparagraph b) of article 189;

h) To approve the State budget;

i) To approve the National Development Plan and the respective plans of implementation;

j) To request the National Assembly the voting on the motions of confidence;

- k) To propose to the President of the Republic the appointment of the Chief of Staff of the Armed Forces, the Vice-Chief of Staff of the Armed Forces, the President of the Court of Audit and the General Prosecutor of the Republic;**
- l) To approve its own acts which involve the increase or the diminution of public revenues or expenditures;**
- m) To deliberate on all matters within its powers under the law or which are brought to its consideration by the Prime Minister;**
- n) To practice any other function attributed to it by the Constitution or by law.**

Article 216 (Legislative competence)

1. The Government, meeting in Council of Ministers, in the exercise of its legislative functions, shall have the exclusive power to adopt and approve decree-laws and other normative acts on its own organization and functioning.

2. The Government, meeting in Council of Ministers, in the exercise of its legislative functions, shall have also the power:

- a) To adopt decree-laws on matters non-reserved to the National Assembly;**
- b) To adopt legislative decrees on matters relatively reserved to the National Assembly, upon legislative authorization by the latter;**
- c) To adopt and approve decree-laws developing the principles or the general basic guidelines and general regimes contained in Laws;**
- d) To adopt decrees for the approval of international treaties and agreements.**

3. The legislative decrees and the decree-laws referred to in subparagraphs b) and c) of the preceding paragraph shall indicate the law of legislative authorization and the guidelines law under which they are approved, respectively.

Article 217 (Administrative power)

The Government, through the Council of Ministers or anyone of its members, in the exercise of its administrative functions, shall have the power:

- a) To implement the Development National Plan and the State budget;**
- b) To make the regulations necessary for the proper implementation of the laws;**
- c) To lead the services and activity of the State direct administration, civilian or military, and to oversee the indirect administration, as well as to exercise supervision of the autonomous administration;**

d) To practice the acts required by law relative to the civil servants and state agents and other public juridical persons;

e) To guarantee the respect for the democratic legality;

f) To practice all acts and to take all measures necessary to the promotion of socio-economic development and to meet the collective needs;

g) To exercise other powers which may be attributed to it by the Constitution and by law.

Article 218 (Power in international relations)

The Government, meeting in Council of Ministers, shall have, on matters of international relations, the power:

a) To define, approve and implement the foreign policy of the country;

b) To negotiate and make adjustments to international treaties and agreements;

c) To approve international treaties and agreements which deal with matters not falling within the exclusive competence of the National Assembly or which have not been submitted to the latter for approval;

d) To ensure the representation of the State of Cape Verde in international relations;

e) To propose to the President of the Republic the appointment of ambassadors, permanent representatives and special envoys.

Article 219 (Powers of the Prime Minister)

The Prime Minister shall have the power:

a) To preside over the Council of Ministers;

b) To lead and coordinate the general policy of the Government and its functioning;

c) To orient and coordinate the action of all Ministers and Ministers of State that depend on him directly, without prejudice to their direct responsibility in the management of their respective governmental departments;

d) To lead and coordinate the relations of the Government with the remaining organs of sovereignty and of political power;

e) To countersign the acts of the President of the Republic, in accordance with paragraph 2 and 3 of Article 150;

- f) To inform, regularly and exhaustively the President of the Republic about matters relative to internal and foreign policies of the Government;**
- g) To represent the Government in all official acts and delegate the exercise of this function to any other member of the Government;**
- h) To present, on behalf of the Government, to the remaining organs of sovereignty or political power, the proposals approved by the Government, as well as to request such organs any other measure required by the Government;**
- i) To practice any other act which may be attributed to him by the Constitution and by law or by the Council of Ministers.**

Article 220 (Competence of the Ministers and Ministers of State)

1. The Ministers shall have the power:

- a) To participate, through the Council of Ministers, in the definition of the internal and foreign policies of the Government;**
- b) To implement the general policy of the Government and, especially, the policy defined for the respective Ministries;**
- c) To establish relations between the Government and the remaining organs of the State in the ambit of the respective Ministry;**
- d) To exercise the functions, which may be attributed to them by the Prime Minister and by the Council of Ministers;**
- e) To exercise any other function which may be attributed to them by the Constitution and by the law.**

2. The Ministers of State shall have the power:

- a) To implement, under the orientation of the respective Ministers, the policy defined for the respective Ministries or Ministries of State;**
- b) To practice acts which may be assigned to them by the respective Ministries;**
- c) To replace the respective Ministers during their absence or temporary impediments;**
- d) To assist the respective Ministers in the management of the services of the respective Ministries;**
- e) To manage, under the guidance of the respective Minister, all the departments of the respective Ministry of State or areas of operation;**
- f) To exercise the functions which may be assigned to them by the respective Ministers and by law.**

TITLE V -- JUDICIAL POWER

CHAPTER I -- GENERAL PRINCIPLES

Article 221 (Jurisdictional Function)

- 1. Justice shall be served by the courts in the name of the people.**
- 2. The courts, in the administration of justice, shall have the power to settle the conflicts arising out of public and private interests and to ensure the upholding of the legally protected rights and interests of the citizens.**
- 3. The courts shall be independent and shall be subject only to the law.**

Article 222 (Principle of Jurisdictional Unity)

- 1. The principle of jurisdictional unity shall be the foundation of the organization and the functioning of the courts.**
- 2. The Courts of exception shall be prohibited.**
- 3. There shall not be special courts for the trial of specific categories crimes or persons, without prejudice to the military courts.**

Article 223 (Exercise of the Jurisdictional Power)

- 1. The jurisdictional power shall be exercised, exclusively, in any type case, by the Courts established in accordance with the Constitution and the law and in conformity with the rules of competence and of legally established procedure.**
- 2. The jurisdictional power shall also be exercised by the courts established by constitutive conventions of supra-national organizations to which Cape Verde is a party, in conformity with the rule of competence and of procedure established therein.**
- 3. The courts shall not exercise other functions other than those established by law.**
- 4. Any public and private authorities shall be obliged to provide the courts the collaboration requested by the latter in the exercise of their functions.**

Article 224 (Holders of Jurisdictional Power)

- 1. The jurisdictional function shall be exercised exclusively by judges appointed in accordance with the law.**
- 2. The law will regulate the judiciary organization and the statute of the judges.**

Article 225 (Consideration of Unconstitutionality)

The courts shall not apply norms contrary to the Constitution or to the principles enshrined therein.

Article 226 (Publicity of hearings)

The court hearings shall be public unless in case of a decision to the contrary by the court itself, taken in accordance with the procedural law with a view to safeguarding the dignity of the persons, the privacy of private life or its own functioning.

Article 227 (Substantiation)

- 1. The decisions of the Courts shall be substantiated in accordance with the law.**
- 2. The decision of the Courts shall be binding on an public and private entity and shall prevail over decisions of any authority.**
- 3. The decisions of the courts on personal freedom shall always be subject to appeal on account of the violation of the law.**

CHAPTER II -- ORGANIZATION OF THE COURTS

Article 228 (Categories of courts)

- 1. There shall exist the following categories of Courts:**
 - a) Supreme Court of Justice and judicial courts of first instance,**
 - b) Court of Audit;**
 - c) Military Courts;**
 - d) Fiscal and Customs Courts.**
- 2. There may be established judicial courts of second instance and administrative courts.**
- 3. The judicial courts of first instance shall be the district courts which may be classified in accordance with the law.**
- 4. The Supreme Court of Justice and the judicial courts of second instance shall function as courts of first instance in the cases laid down by law.**
- 5. The organization and functioning of the courts will be regulated by law.**
- 6. The law may establish courts specialized "ratione materiae".**

Article 229 (Supreme Court of Justice)

- 1. The Supreme Court of Justice shall be the highest organ in the hierarchy of the courts and shall have jurisdiction over the whole national territory.**
- 2. The Supreme Court of Justice shall have its seat in the city of Praia.**

Article 230 (Composition)

- 1. The Supreme Court of Justice shall consist of a minimum of five judges of whom:**
 - a) One judge shall be appointed by the President of the Republic;**
 - b) One judge shall be elected by the National Assembly;**
 - c) The remaining judges shall be appointed by the Supreme Council of Magistrates.**
- 2. The judge appointed by the President of the Republic shall be chosen from among judicial magistrates, and magistrates of the Prosecuting Council;**
- 3. The judge elected by the National Assembly may be chosen from among judicial magistrates, magistrates of the Prosecuting Council or national jurists.**
- 4. The judges appointed by the Supreme Council of Magistrates shall be judicial magistrates.**

Article 231 (Requirements of Eligibility)

- 1. Only Capeverdean citizens of reputed merit, with a law degree and in full enjoyment of their civil and political rights and who have exercised, at the time of the appointment, for at least five years, the professional activity as a magistrate or in any other forensic activity or in the legal teaching shall qualify for the appointment as judge of the Supreme Court of Justice.**
- 2. The law may lay down, in addition to the requirements established in the preceding paragraph, other requirements for the appointment of the judges by the Supreme Council of Magistrates.**

Article 232 (Election)

- 1. The Judge appointed by the National Assembly shall be elected by a two thirds majority of the votes of the deputies present, provided that such majority is higher than the absolute majority of the deputies on active duty.**
- 2. The electoral process will be regulated by law of the National Assembly.**

Article 233 (Coming into office and oath)

- 1. The judges of the Supreme Court of Justice shall take office before the President of the Republic.**

2. In the act of coming into office the judges shall make the following oath:

"I swear, on my honor, to comply with the Constitution of Cape Verde, to promote the constitutionality of the laws and carry out faithfully the functions that are entrusted to me".

Article 234 (Mandate)

1. The mandate of the judges of the Supreme Court of Justice shall commence with the act of their coming into office, shall have the duration of five years from the date of such act and shall terminate with the coming into office of the new judges to occupy their respective posts.

2. The judges appointed by the President of the Republic and those elected by the National Assembly shall be placed, after the expiration of their mandate, if they are judicial magistrates or magistrates of the Prosecuting Council, on the highest category of the carrier of judicial magistrates or of Prosecuting Council.

Article 235 (Appointment and replacement of the Chief Justice of the Supreme Court of Justice)

1. The Chief Justice of the Supreme Court of Justice shall be appointed by the President of the Republic from among the judges that constitute such court, in consultation with the Supreme Council of Magistrates.

2. In case of temporary impediment of the Chief Justice of the Supreme Court of Justice for a period of over thirty days, or in case of the vacancy of the post and until the coming into office of the new Chief Justice, the judge of the Supreme Court who, in accordance with the law, replaces the Chief Justice, shall be vested in the functions of the latter.

Article 236 (Termination of Functions)

1. The functions of the judges of the Supreme Court of Justice, except in cases of the termination of the mandate, shall only cease if any one of the following facts takes place:

a) Death or permanent physical or mental incapacity;

b) Renunciation;

c) Dismissal or compulsory retirement, as a result of disciplinary or criminal proceedings;

d) Acceptance of post or responsibilities which are, constitutionally or legally, incompatible with the exercise of their functions.

2. The date for the cessation of functions shall be, in the case referred to in subparagraphs a) and b), the date of the death occurrence, of the declaration by

the Supreme Court of Justice on the permanent physical and mental incapacity or of the coming into office, respectively.

3. The renunciation which does not depend on the acceptance, nor can be made under conditions, shall be declared in writing to the Chief Justice of the Supreme Court of Justice and shall come into force with the coming into office of the newly elected judge.

4. The Plenum of the Supreme Court of Justice shall have the power to verify the occurrence of the situations referred to in subparagraphs a) to c) of paragraph 1 of the present article.

5. The Chief Justice of the Supreme Court of Justice shall order the publication in the journal of the Republic of the declaration of cessation of functions on account of any of the facts referred to in paragraph 1 of the present article.

Article 237 (Competence)

The Supreme Court of Justice, meeting in Plenum, shall have the power:

- a) To consider the constitutionality of the norms and of the resolutions which have a materially normative content or a specific and concrete content;**
- b) To consider the legality of the resolutions which have a materially normative content or a specific and concrete content;**
- c) To verify the death and to declare the permanent physical and mental incapacity of the President of the Republic, as well as to declare the temporary impediments for the exercise of his functions;**
- d) To verify the forfeiture of office by President of the Republic in the cases of his absence from the national territory without consent and in the case of his condemnation for crimes committed in the exercise of his functions;**
- e) To verify the death and to declare the incapacity for the exercise of the presidential function of any candidate to the office of President of the Republic, for the purpose of paragraph 2 of Article 119.**
- f) To exercise any other function which may be assigned to it by the Constitution or by law.**

Article 238 (Competence relative to the electoral process and the organization of political parties)

The Supreme Court of Justice shall also have the power:

- a) To receive and accept the candidatures for the office of President of the Republic;**

b) To decide on the appeals made against decisions on claims and protests lodged during the general tabulation of the election results for the President of the Republic;

c) To decide on the appeals made on matters relating to the presentation of candidatures and on electoral contentious matters relating to the elections for the National Assembly and the organs of local power.

d) To accept the request for the enrollment of political parties, coalitions and associations on a registry specially established in the Court for the purpose, as well as to take notes relative to those political forces, as required by law, and to cancel, due to their abolition or dissolution, of the records made.

e) To consider the legality of the denominations, acronyms and symbols of the political parties, coalitions or associations and the identity or similitude with those of other political parties and coalitions or partisan fronts already registered.

f) To declare the illegality of organizations pursuing a partisan and political goal or of other nature, the creation of which is prohibited by law, and to decree their abolition.

Article 239 (Courts of First Instance)

1. The courts of first instance shall have jurisdiction to try cases which, by law, are not assigned to another jurisdiction.

2. The law shall regulate the composition, the functioning and the competence of the courts of the first instance.

Article 240 (Military Courts)

1. The military courts shall have jurisdiction to try crimes which, "ratione materiae", are defined by law as essentially military crimes.

2. The decisions of the military courts shall be subject to appeal to the Supreme Court of Justice, in accordance with the law.

Article 241 (Court of Audit)

1. The Court of Audit shall be the supreme organ for the monitoring of the legality of public expenditures and for the auditing of accounts that the law may assign to it.

2. The President of the Court of Audit shall be appointed by the President of the Republic, on the proposal of the Government.

3. The provisions of articles 233 and 234 shall apply to the judges of the Court of Audit.

4. The law will regulate the composition, functioning and the competence of the Court of Audit.

CHAPTER III -- STATUTE OF THE JUDGES

Article 242 (Judicial Magistrates)

- 1. The judges shall constitute a sole and autonomous corps which shall be independent from all other organs of sovereignty and guided by their own statute.**
- 2. The recruitment and the promotions of judges shall be regulated by law, taking always into account the merit of the candidates.**
- 3. The judges on active duty shall not exercise any other public or private functions, with exception of teaching, research in the field of law or in special cases laid down by law.**
- 4. The judges on active duty shall not be affiliated in political parties or associations, nor shall they dedicate themselves, in any way, to any partisan political activity.**

Article 243 (Guarantees of the Judges)

- 1. The judges shall be irremovable and shall not be suspended, transferred, retired or dismissed, unless in the cases established by law.**
- 2. The judges shall not be accountable for their sentences and decisions, except in cases established by law.**
- 3. The judges, in the exercise of their functions, shall be independent and shall only obey the law and their conscience.**

Article 244 (Appointment, Placement, Transfer and promotion)

- 1. The appointment of judges shall be regulated by special law.**
- 2. The Supreme Council of Magistrates shall have the power to decide on the promotion, placement, and transfer of judges as well as to exercise the disciplinary action against them, in accordance with the law.**

Article 245 (Inter-mobility)

The statute of the judges may establish the inter-mobility between the carriers of Judicial Magistrates and of the Prosecuting Council.

Article 246 (Supreme Council of Magistrates)

- 1. The Supreme Council of Magistrates shall consist of the following members;**

- a) **The Chief Justice of the Supreme Court of Justice;**
 - b) **The High Judicial Inspector;**
 - c) **Two citizens appointed by the President of the Republic;**
 - d) **Three citizens elected by the National Assembly,**
 - e) **Two carrier judges elected by their peers.**
2. **The Supreme Council of Magistrates shall be presided by the Chief Justice of the Supreme Court of Justice.**
 3. **The members of the Supreme Council of Magistrates shall enjoy the guarantees granted to the judges.**
 4. **The law will regulate the statute of the Supreme Council of Magistrates.**

CHAPTER IV -- PROSECUTING OFFICE

Article 247 (Statute and functions)

1. **The Prosecuting Council shall have the function of representing the State, defending the democratic legality, the rights of the citizens and the public interest protected by the Constitution and by law, as well as exercising penal action.**
2. **The Prosecuting Council shall be an autonomous corps of magistrates endowed with its own statute and shall exercise its function through its own organs, based on the principles of unity of action, hierarchical dependence and respect for the principles of impartiality and legality.**
3. **The agents of the Prosecuting Council shall be responsible magistrates and hierarchically subordinated and shall not be transferred, suspended, dismissed or retired save in the cases laid down by law.**

Article 248 (Appointment, placement, promotion and transfer)

1. **The appointment and the placement of the agents of the Prosecuting Council will be regulated by law.**
2. **The General Prosecutor of the Republic shall have the power to promote and transfer the agents of the Prosecuting Council and to exercise the disciplinary action, in accordance with the law.**

Article 249 (General Prosecuting Office)

1. **The General Prosecuting Office shall be the supreme instance of the Prosecuting Council and shall be led by the General Prosecutor of the Republic.**

2. The General Prosecutor of the Republic shall be appointed, for a period of five years, by the President of the Republic, on the proposal of the Government and shall not be dismissed before the termination of his mandate, unless in the cases provided for in paragraph I of Article 236.

3. The provisions of paragraphs 2, 4 and 5 of article 236 shall apply to the General Prosecutor of the Republic.

4. The renunciation, which does not depend on acceptance, and which cannot be made under condition, shall be declared in writing to the President of the Republic and shall become effective upon the coming into office of the new General Prosecutor of the Republic.

Article 250 (Inter-mobility)

The statute of the Prosecuting Council may establish the mobility between the carriers of the Prosecuting Council and of Judicial Magistrates.

CHAPTER V -- LAWYERS

Article 251 (Functions and Guarantees of the Lawyer)

1. The lawyer in the exercise of his function shall be a servant of Justice and of Law and an indispensable collaborator in the administration of Justice. 2. In the exercise of his functions and within the limits set by law, the documents, correspondence and other objects which may have been entrusted to the lawyer by his client, which the former may have obtained for the defense of the latter or that are related to the lawyer's profession, shall be inviolable.

3. The searches, seizures or other similar measures undertaken in the lawyer's office and files shall only be ordered by Judicial decision and shall be carried out in the presence of the judge who authorized them, the lawyer and a representative of the body representing the lawyer appointed by the latter for this purpose.

4. The lawyer shall have the right to communicate personally and in a confidential manner with his client, including when the latter is under arrest or is detained.

TITLE VI -- LOCAL POWER

Article 252 (Territorial organization of the State in Local Administration)

1. The organization of the State shall include the existence of local administration.

2. The local administration shall consist of public juridical persons of a territorial nature endowed with organs which are representative of the respective populations, and which pursue the interests that are specific to the latter.

3. The establishment, abolition and change of the area of local administration shall be made by law, in prior consultation with the organs of the affected local administration.

4. The law shall lay down the administrative division of the territory.

Article 253 (Categories of the local administration)

The local administration shall consist of municipalities and the law may establish other categories of local administration higher or lower than the territorial area of the Municipality.

Article 254 (Solidarity)

1. The State shall promote the solidarity among the bodies of local administration, in conformity with the particularities of each one of them and bearing in mind the reduction of regional asymmetries and the national development.

2. The State, while respecting the autonomy of the local administration, shall guarantee to the latter technical and material support, as well as support in the field of human resources.

Article 255 (Assets and finances of the local administration)

1. The local administration shall have their own finances and assets.

2. The law shall regulate the assets of the local administration and lay down the regime for the its finances, having in mind the fair distribution of the public resources between the State and the local administration and the remaining principles referred to in the present title.

3. The law will regulate the participation of the municipalities in the fiscal revenues.

Article 256 (Organization of local administration)

1. The organization of local administration consists of an elected assembly, endowed with deliberative powers and a collegial executive organ.

2. The assembly shall be elected by the electors residing in the territorial area of the local administration, in accordance with the system of proportionate representation.

Article 257 (Regulatory function)

The local administration shall have its own regulatory function, within the limits set by the Constitution and the law.

Article 258 (Supervision)

- 1. The administrative supervision of the local administration shall consist in the verification of its compliance with the law and shall be exercised in the cases set out by and in accordance with the law.**
- 2. The measures of supervision that restrict local autonomy shall be preceded by the municipal assembly's advice, in accordance with the law.**
- 3. The dissolution of the organs of the local administration resulting from direct elections shall only take place on account of serious actions or omissions laid down by law.**

Article 259 (Staff of the local administration)

- 1. The local administration shall have its own staff, whose classification shall be established by law.**
- 2. The civil servants and agents of the local administration shall be bound by their own statute which shall be based on the civil service general regime.**

Article 260 (Functions and organization of the local administration)

- 1. The functions and the organization of the local administration, as well as the powers of its organs will be regulated by law, while respecting the principle of autonomy and decentralization.**
- 2. The organs of local administration may delegate to the community organizations administrative tasks that do not involve the exercise of functions of authority.**

Article 261 (Associations of the local administration)

The local administration may constitute association and federation for the pursuit of common interests.

TITLE VII -- PUBLIC ADMINISTRATION

Article 262 (Fundamental Objective)

- 1. The Public Administration while respecting the Constitution and the law shall pursue the collective interest, and its activity shall be guided by the principles of justice, transparency and impartiality.**
- 2. The Public Administration shall, in pursuance of the collective interest, respect the citizens legitimate rights and interests.**
- 3. The Public Administration and the process of the administrative activity shall be structured and regulated by the law, while respecting the principles of decentralization and deconcentration.**

Article 263 (Civil Service)

- 1. The civil servants and the remaining agents of the State and of other public entities shall be at the service of the common good as defined by the competent organs of the Public Administration in accordance with the law.**
- 2. The access to and the professional development in the civil service shall be based on the merit and the capacity of the candidates shown, as a rule, through public competition.**
- 3. The servants of the Public Administration and the remaining agents of the State and of other public entities shall not benefit or be harmed due to their partisan political options or to the exercise of their rights provided for in the Constitution and the law.**
- 4. The law will regulate the statute of the civil servants and remaining State agents, the incompatibilities and the guarantees of impartiality in the exercise of public office.**

Article 264 (Duty of Obedience)

- 1. The civil servants and remaining agents of the State and of other public entities shall, in the exercise of their functions and in carrying out official matters, obey their hierarchical superiors in accordance with the law.**
- 2. The duty of obedience shall cease whenever the compliance with any order or instruction would result in the commission of a crime.**

Article 265 (Responsibility of the civil servants and agents)

The law will regulate the civil, criminal and disciplinary responsibility of the civil servants and the remaining agents of the State and of other public entities for acts or omissions that take place in the exercise of their functions and shall establish the conditions in which the State and other public entities have the right of reimbursement against the holders of their organs, civil servants and agents.

Article 266 (Police)

- 1. The police shall have the function of defending the democratic legality, ensuring the internal security, the public tranquility and the rights of the citizens.**
- 2. Police measures shall obey the principles of legality, necessity, reasonableness and proportionality.**
- 3. The law shall lay down the police measures and regulate the basic principles of police conduct, as well as the respective statute.**
- 4. The Police statute may establish the restrictions of rights provided for in article 272, should it be strictly necessary for the maintenance of order and discipline of the whole police force.**

Article 267 (Rights and guarantees of the citizens before the administration)

1. Any citizen shall, directly or through the association or organization to which he belongs and in accordance with the law, have the right:

- a) To be heard in respect to administrative processes in which he has a vested interest;**
- b) To be informed by the Administration, whenever he so requests, about the evolution of the said processes, should he be so directly interested;**
- c) To be notified about administrative acts in which he has a vested interest and which shall always be substantiated in fact and in law;**
- d) To appeal judicially against any administrative act which offend his rights and legitimate interests, based on argument of illegality.**

2. The citizen shall also have, in accordance with the law, the following rights:

- a) The access to administrative files and records, except those relative to the State security and defense, criminal investigation, the privacy of persons, as well as matters classified as State secret, in accordance with the law;**
- b) The access to administrative judicial means for the defense of his rights and legitimate interests;**
- c) The compensation for damages suffered as a result of the violation of his rights or legitimate interests, caused by action or omission of the civil servants and remaining agents of the State and of other public entities that take place in the exercise of their functions and as a result of them.**

TITLE VIII -- NATIONAL DEFENSE

Article 268 (National Defense)

The National defense is the disposition, integration and coordination action of all the moral and material energies and forces of the Nation in the face of any form of threat or aggression and shall, as its purpose, guarantee in a permanent manner the unity, the sovereignty, the territorial integrity and the independence of Cape Verde, the liberty and the security of its population, as well as the constitutional order democratically established.

Article 269 (Armed Forces)

- 1. The Armed Forces shall be a permanent and regular institution and shall consist exclusively of Capeverdean citizens and be structured on the basis of hierarchy and discipline.**
- 2. The Armed Forces shall be subordinated to and shall obey the competent organs of sovereignty, in accordance with the Constitution and the law.**

3. The Armed Forces shall be at the service of the Nation and shall be rigorously non-partisan and their members on active duty or those that belong to the permanent service and are on the active log, shall not affiliate themselves in any trade union, political party or association, nor shall they exercise partisan political activities of any nature.

4. The organization of the Armed Forces shall be one for the whole national territory.

Article 270 (Missions of the Armed Forces)

1. The Armed Forces shall, exclusively, have the task to implement the military component of the national defense, and shall have the task of ensuring the military defense of the Republic against any external threat or aggression.

2. The Armed Forces shall, without prejudice to paragraph 1, also carry out the missions assigned to them, in accordance with the law and in the following contexts:

a) Implementation of the state of siege and emergency;

b) Guarding, monitoring and defending of the national air and maritime spaces, namely in respect to the use of the territorial sea and the exclusive economic zone, as well as the operations of search and rescue;

c) Collaboration in the tasks aimed at meeting the basic needs and improving the living conditions of the populations;

d) Participation in the national system of civil protection;

e) Defense of the democratic institutions and the constitutional order;

f) The carrying out of other missions of public interest.

3. Any Armed Forces intervention shall only take place on the order of the competent military hierarchy whose conduct shall be guided by the strict obedience to the decisions and instructions of the organs of sovereignty, in accordance with the Constitution and the law.

Article 271 (Military Service)

1. The defense of the country shall be a right and a duty of all Capeverdeans.

2. Military service shall be compulsory in accordance with the law.

3. The conscientious objectors and those that are incapacitated to do military service shall carry out civic service, in accordance with the law.

4. The law may provide for civic service in replacement of military service.

Article 272 (Restrictions to the exercise of Rights)

The law may lay down restrictions to the exercise of the rights of expression, assembly, association and petition, as well as restrictions to rights relative to the civilian workers of the Armed Forces and to the electoral passive capacity of the military, the permanent cadres on the active log and the remaining military personnel on active duty, within the strict requirement of the military condition.

Article 273 (Guarantee of the citizens who do their military service)

Nobody shall be harmed in his employment, placement, promotion or social benefits due to his doing military service or carrying out compulsory civic service.

Article 274 (Supreme Council of National Defense)

- 1. The Supreme Council of National Defense shall be the specific organ for consultation on matters pertaining to national defense and the Armed Forces.**
- 2. The Supreme Council of National Defense shall be presided over by the President of the Republic, shall have the composition as determined by law and include civil and military entities.**

TITLE IX -- AUXILIARY ORGANS OF THE ORGANS OF POLITICAL POWER

CHAPTER I -- COUNCIL OF THE REPUBLIC

Article 275 (Definition and Composition)

- 1. The Council of the Republic shall be the consultative political organ of the President of the Republic.**
- 2. The Council of the Republic shall consist of:**
 - a) The President of the National Assembly;**
 - b) The Prime Minister;**
 - c) The Chief Justice of the Supreme Court of Justice;**
 - d) The General Prosecutor of the Republic;**
 - e) The President of the Council for Regional Affairs;**
 - f) Two citizens chosen by the President of the Republic;**
 - g) Two citizens chosen by the National Assembly.**

3. The citizens referred to in subparagraphs f) and g) of paragraph 2 shall not be Deputies, nor shall they be holders of any organ of sovereignty or of the elective organs of local administration.

Article 276 (Mandate and Coming into office)

1. The mandate of the members of the Council of the Republic referred to in subparagraphs a) and e) of paragraph 2 of article 275 shall commence with their coming into office and cease with the end of their functions.

2. The mandate of the members referred to in subparagraphs f) and g) of paragraph 2 of article 275 shall cease with the coming into office of the new President of the Republic and with the termination of the legislature, respectively.

Article 277 (Powers)

1. The Council of the Republic shall have the power to pronounce itself on:

- a) The dissolution of the General Assembly;**
- b) The dismissal of the Government;**
- c) The holding of referendum at the national level;**
- d) The fixing of the date for the elections of the President of the Republic and the Deputies to the National Assembly, as well as for the holding of referendum at the national level;**
- e) The declaration of war and the making of peace;**
- f) The declaration of the state of siege and emergency;**
- g) The treaties which involve restrictions on the sovereignty, the participation of the country in the international organizations for collective or military security;**
- h) Other important matters of national life;**
- i) Any other matter provided for in the Constitution.**

2. The Council of the Republic shall also have the power:

- a) To draw up and approve its Rules of Procedure;**
- b) To advise the President of the Republic, at the request of the latter.**

Article 278 (Meetings)

1. The meetings of the Council of the Republic shall be convened and presided over by the President of the Republic.

2. The Council of the Republic shall only meet when the majority of its members is in attendance, except in case of state of siege or of emergency.

3. The deliberations of the Council of the Republic shall be taken by an absolute majority of its members.

4. Members of the Government that are not members of the Council of the Republic, the Chief of Staff of the Armed Forces or, in his absence or impediment, the Vice-Chief of Staff, or any other public or private entity may, upon the decision of the President of the Republic, participate in the meetings of the Council of the Republic, without the right to vote.

5. The meetings of the Council of the Republic shall not be public.

Article 279 (Effects of the pronouncements of the Council of the Republic)

The deliberations of the Council of the Republic shall not be binding.

Article 280 (Form and publicity of the deliberations)

1. The deliberations of the Council of the Republic shall have the form of advices and shall only be published should the act to which they refer be practiced.

2. The advices shall obligatorily be drawn up in the meeting in which the deliberation to which they refer took place.

3. The publication referred to in the preceding paragraph shall be made simultaneously with the publication of the act.

CHAPTER II -- COUNCIL FOR REGIONAL AFFAIRS

Article 281 (Composition)

1. The Council for Regional Affairs shall consist of two representatives of each island, elected by each college constituted by the deputies elected by the electoral circles corresponding to the island and by the members of the municipal assembly of all the municipalities of the island.

2. The mandate of the regional counselors shall have a four year duration.

3. The law will regulate the election and the statute of the regional counselors.

Article 282 (Competence)

1. The Council for Regional Affairs shall advise on all matters of relevant interest to regional development, at the initiative of any of its members or at the request of the National Assembly, the President of the Republic or the Government.

2. The request for advice from the Council for Regional Affairs in respect to the National Development Plan, the Regional Development Plans, the draft laws and proposals of law on local administration or on local finances shall be obligatory.

3. The law shall regulate the organization, the competence, and the functioning of the Council for Regional Affairs, and may establish other cases of obligatory request for advice.

TITLE X -- FORM AND HIERARCHY OF THE ACTS

CHAPTER I -- ACTS OF THE PRESIDENT OF THE REPUBLIC

Article 283 (Presidential Decrees)

The normative acts of the President of the Republic, which under the Constitution shall not take a different form, shall take the form of presidential decrees.

CHAPTER II -- FORM OF LEGISLATIVE AND NORMATIVE ACTS

Article 284 (Legislative acts)

1. The Constitutional Law, the Organic Law, the Framework Law, the Laws and the Rules of Procedure shall have the form of legislative acts.

2. It shall take the form of:

a) Constitutional Law, the acts which approve or change the Constitution;

b) Organic law, the acts referred to in subparagraphs c), e), f), h) and i) of paragraph 1 of article 187;

c) Framework Law, the acts referred to in paragraph 2 of article 187 and subparagraphs e), g), l) and m) of article 188;

d) Law, the remaining acts referred to in paragraph 1 of article 187 and article 188 and also the acts referred to in subparagraph c) of article 186;

e) Rules of Procedure, the act regulating the organization and the functioning of the National Assembly.

3. The framework laws shall not authorize their own modification nor shall they establish norms of a retroactive character.

4. The legislative acts of the National Assembly, with exception of the Rules of Procedure, shall, after their promulgation by the President of the Republic, be signed by the President of the National Assembly. Failure to observe this provision shall make such acts null and void.

Article 285 (Legislative acts of the Government)

1. The legislative acts of the government shall be the decree, the legislative decree and the decree- law.

2. It shall take the form of:

a) Decree, the acts of approval of international treaties and agreements by the Government;

b) Legislative Decree, the acts of the Government enacted on the basis of the law of legislative authorization;

c) Decree-Law, the remaining legislative acts of the Government.

3. The legislative acts of the Government shall be signed by the Prime Minister and the competent Minister "ratione materiae".

Article 286 (Types of legislative acts)

No other law shall create other categories of legislative acts, nor confer on the normative acts of a different nature the power to make authentic interpretation or to fill the lacunae of laws, as well as to modify, suspend or revoke any legislative act.

Article 287 (Rules of Procedures)

The normative acts regulating the organization and the functioning of the Council of the Republic, the Council for Regional Affairs and the Municipal Assemblies shall take the form of Rules of Procedure.

Article 288 (Regulation)

1. It shall take the form of:

a) Regulatory Decree, the normative acts of the Government enacted by the Council of Ministers and any other act in relation to which the law imposes such form;

b) Regulation, the normative acts enacted, in accordance with the law, by the members of the Government or by any other administrative authority in the exercise of its administrative functions.

2. The regulatory decrees shall be signed by the Prime Minister and by the member of the Government who is competent "ratione materiae".

3. The regulatory decrees and the remaining regulations shall expressly indicate the law that they are regulating or which lays down the objective and subjective power for their enactment.

CHAPTER III -- RESOLUTIONS AND MOTIONS

Article 289 (Resolutions of the National Assembly and of the Government)

- 1. The acts of the National Assembly and of the Government not referred to in articles 284, 285 and 288, as well as the acts of the collegial organs which, by law, shall not take a different form, shall, take the form of a resolution.**
- 2. The resolutions of the organs of sovereignty shall not need promulgation.**

Article 290 (Motions)

The acts of the National Assembly referred to in subparagraphs a) and b) of paragraph 3 of the article 191 shall take the form of motions.

CHAPTER IV -- HIERARCHY AND PUBLICATION

Article 291 (Hierarchy of Laws)

The laws and Decree-laws shall have equal value, without prejudice to the superior value of the organic and framework laws and the subordination of the legislative decrees and of those that develop the general guidelines of juridical regimes to the corresponding laws.

Article 292 (Publication)

- 1. The following shall be published in the official journal of the Republic:**
 - a) The legislative acts of the National Assembly and of the Government;**
 - b) The Rules of Procedures of the Council of the Republic and of the Council for Regional Affairs;**
 - c) The Presidential Decrees;**
 - d) The international conventions and the respective notices of ratification, as well as any other notice regarding such conventions;**
 - e) The resolutions of the National Assembly and of the Government;**
 - f) The decisions of the Supreme Court of Justice which deal with the monitoring of the constitutionality or illegality or any decision that the law confers general compulsory force;**
 - g) The regulations of the Public Administration, whether direct or indirect and of the organs of local power.**

The non-publication in the official journal of the acts referred to in the subparagraphs a) to g) of this paragraph shall make them null and void.

2. The remaining acts not referred to in the preceding paragraph shall be published in accordance with the modality established by law which shall determine the consequences of the lack of their publication.

PART VI -- GUARANTEES OF PROTECTION AND REVISION OF THE CONSTITUTION

TITLE I -- STATE OF SIEGE AND EMERGENCY

Article 293 (State of siege)

The state of siege shall only be declared, in the whole or in part of the national territory, in case of actual or imminent aggression against the national territory by foreign forces or serious threat or disturbance of the constitutional order.

Article 294 (State of emergency)

The state of emergency shall be declared in the whole or in part of the national territory, in case of public calamity or disturbance of the constitutional order the seriousness of which does not warrant the declaration of the state of siege.

Article 295 (Substantiation and duration period)

- 1. The declaration of the state of siege or emergency shall be duly substantiated and it shall indicate its territorial ambit and effects, the rights, liberties and guarantees which shall be suspended, as well as its duration, which shall not be more than thirty days, to be prorogate for equal period and for the same reasons.**
- 2. In case of war, and having the state of siege been declared, the law may fix for such state of siege a period longer than the one referred to in the preceding paragraph in which case the duration period shall be strictly necessary for the prompt resumption of democratic normalcy.**

Article 296 (Prohibition of dissolution of the National Assembly)

- 1. The National Assembly shall not be dissolved while the state of siege or emergency is in force and shall become automatically convened in case it is not in session.**
- 2. In case the National Assembly has been dissolved or in case the legislature has terminated on the date of the declaration of the state of siege or emergency, the powers of the former shall be assumed by the Permanent Commission.**

Article 297 (Subsistence of certain fundamental rights)

The declaration of the state of siege or emergency shall not in any way, affect the right to life, physical integrity, personal identity, civil capacity, citizenship, the non-retroactivity of penal law, the right of defense by the accused and the freedom of conscience and religion.

Article 298 (Powers of the organs of sovereignty)

The declaration of the state of siege or emergency shall not affect the constitutional rules regarding the powers and the functioning of the organs of sovereignty nor shall it affect the rights and immunities of the respective holders, nor modify the principles of the responsibility of the State and its agents, as recognized by the Constitution.

Article 299 (Prorogation of the elective mandates and prohibition to hold elections)

- 1. Once the state of siege is declared, the mandates of the holders of the elective organs of political power which should terminate while the state of siege is in force shall become automatically prorogated.**
- 2. Once the state of emergency restricted to a party of the national territory is declared, the provision of the preceding paragraph shall apply to the elective organs of the respective area.**
- 3. The holding of any electoral act shall not be allowed, while the state of siege or of emergency is in force and until the thirtieth day following its termination.**

TITLE II -- MONITORING OF THE CONSTITUTIONALITY

Article 300 (Unconstitutionality by action)

- 1. The norms and resolutions of a normative or of a specific and concrete content which violate the provisions of the Constitution or the principles enshrined therein shall be unconstitutional.**
- 2. The organic or formal unconstitutionality of international treaties and agreements which deal with matters that fall within the competence reserved to the National Assembly or within the legislative power of the Government shall not impair the application of the norms of such treaties and agreements in the Capeverdean legal order, in case they are confirmed by the Government and approved by the National Assembly by a two third majority of the Deputies present in the first Plenum meeting following the date of the publication of the court's decision.**
- 3. Once the irregularity is solved and if, on account of such irregularity, the international treaty or agreement has not been ratified, the President of the Republic is authorized to ratify it.**

Article 301 (Preventive Monitoring of the constitutionality)

- 1. The President of the Republic may request to the Supreme Court of Justice the preventive consideration of the constitutionality of any norm of an international treaty or agreement submitted to him for ratification.**

2. The preventive consideration shall be requested within a period of eight days from the date of the reception of the act in the Office of the President of the Republic.

3. The Supreme Court of Justice shall pronounce itself within a period of ten days.

Article 302 (Effects of the decision)

1. Should the Supreme Court of Justice pronounce itself in favor of the unconstitutionality of the norm of international treaty or agreement, the latter shall not be ratified by the President of the Republic who shall return it to the organ which approved it.

2. The international treaty or agreement which contains the norm declared to be unconstitutional may be ratified by the President of the Republic should be the National Assembly, in consultation with the Government, confirm it by a majority of two thirds of the Deputies present, if such majority is higher than the absolute majority of the Deputies on active duty.

3. Should the Supreme Court pronounce itself in favor of organic or formal unconstitutionality of the international treaty or agreement, the approval of the latter shall have to be made by the National Assembly in accordance with paragraph 2 of article 300.

Article 303 (Abstract Monitoring of constitutionality)

The Supreme Court of Justice, at the request of the President of the Republic, the President of the National Assembly, the Prime Minister, the General Prosecutor of the Republic and, at least, one fourth of the Deputies, shall consider and declare:

a) The unconstitutionality of any norms or resolutions of a materially normative content or of a specific and concrete content;

b) The illegality of the resolutions referred to in subparagraph a).

Article 304 (Concrete Monitoring of the constitutionality)

1. Decisions of the courts shall be subject to appeal to the Supreme Court of Justice whenever:

a) The courts refuse, on the basis of the argument of unconstitutionality, to apply any norm or resolution of a materially normative content or of a specific and concrete content;

b) The courts apply norms or resolutions of a materially normative content or of a specific and concrete content the unconstitutionality of which has been raised in the process;

c) The courts apply norms or resolutions of a materially normative content or of a specific and concrete content which have previously been considered unconstitutional by the Supreme Court of Justice.

2. Decisions of the courts shall also be subject to appeal to the Supreme Court of Justice whenever:

a) The courts apply resolutions of a materially normative content or of a specific and concrete content which have previously been considered illegal by the Supreme Court of Justice or whose illegality has been raised in the process.

b) The courts refuse to apply the resolutions referred to in the preceding subparagraph, under the argument of illegality.

Article 305 (Legitimacy to appeal)

1. The General Prosecuting Office and persons that, in conformity with the law regulating the monitoring process of the constitutionality, have legitimacy to file an appeal, shall have the right to appeal to the Supreme Court of Justice.

2. The appeal referred to in the preceding paragraph shall only be filed after the resort to other appeals laid down in the law of the process in which the decision was rendered have been exhausted and shall be limited to the question of unconstitutionality or illegality, as the case may be.

3. The appeal filed against the decisions referred to in subparagraph c) of paragraph 1 and in the first part of subparagraph a) of paragraph 2 of the preceding article shall be obligatory filed by the General Prosecuting Office.

Article 306 (Form of the decisions of the Supreme Court of Justice, on matters of the monitoring of constitutionality or illegality)

1. In the cases referred to in article 302, the pronouncement of the Supreme Court of Justice shall take the form of an Advisory Opinion.

2. In any other cases the decisions of the Supreme Court of Justice shall be denominated "Acordaos."

3. The decisions of the Supreme Court of Justice which pertain to the monitoring of the constitutionality or illegality, shall be published "in integra" in the official journal.

Article 307 (Effects of the "Acordaos" and the Advisory Opinions)

1. The "Acordaos" of the Supreme Court of Justice which pertain to the constitutionality or illegality, whatever the process in which they were rendered, shall have compulsory force.

2. The Advisory Opinions shall produce the effects laid down in article 302.

Article 308 (Effects of the declaration of unconstitutionality)

- 1. The declaration of unconstitutionality and of illegality, which have a general obligatory force, shall produce effect since the entry into force of the norm considered unconstitutional or illegal and the reactivation of the norms which such norm may have revoked.**
- 2. In case of unconstitutionality or illegality for violation of constitutional norm or of legal norm adopted later, the declaration shall only produce effect upon its entry into force.**
- 3. The declaration of unconstitutionality of a norm of any international convention shall produce effect from the date of the publication of the "Acordao".**
- 4. In the cases referred to in paragraphs 1 and 2, whenever reasons of security, equity and public interest of exceptional relevance, duly substantiated, so require, the Supreme Court of Justice may determine effects of a more limited scope than those referred to in paragraphs 2 and 3.**
- 5. The effects of the declaration of unconstitutionality or of illegality which have a general obligatory force shall not affect the "res judicata" decisions, except in case of a decision to the contrary by the Supreme Court of Justice, if the norm is relative to penal or disciplinary matter or pertains to a regulatory offence and its content is more favourable to the accused.**

TITLE III -- REVISION OF THE CONSTITUTION

Article 309 (Competence, time and initiative of the revision)

- 1. The present Constitution may be revised, in whole or in part, by the National Assembly five years after its promulgation.**
- 2. The National Assembly may, however, assume constitutional revision powers at any time by decision of a majority of four fifths of the deputies on active duty.**
- 3. The initiative of the revision of the Constitution shall belong to the Deputies.**

Article 310 (Revision Drafts)

- 1. The Constitution revision drafts shall indicate the articles to be revised and the direction of the changes to be introduced.**
- 2. The Constitution revision drafts shall be sponsored by, at least, one third of the Deputies on active duty.**
- 3. Once any Constitution revision draft is presented, any other draft shall be presented within a period not exceeding sixty days.**

Article 311 (Approval of changes)

- 1. Each one of the changes to be introduced to the Constitution shall be approved by a majority of two thirds of Deputies on active duty.**
- 2. The changes approved shall be consolidated in a sole revision law.**

Article 312 (New text of the Constitution)

- 1. The changes to the Constitution shall be inserted in the proper placement, by way of substitutions, deletions or necessary additions.**
- 2. The new text of the Constitution shall be published together with the revision law.**

Article 313 (Material limits of the revision)

- 1. The following shall not be the object of a revision:**
 - a) The national independence, national territorial integrity and unity of the State,**
 - b) The republican form of the Government;**
 - c) The universal, direct, secret and periodic suffrage for the election of the holders of the organs of sovereignty and local power;**
 - d) The separation and interdependence of the organs of sovereignty;**
 - e) The autonomy of local power;**
 - f) The independence of the courts;**
 - g) The pluralism of expression and of political organization and the right of the opposition.**
- 2. The revision laws also shall not restrain or limit the rights, liberties and guarantees enshrined in the Constitution.**

Article 314 (Promulgation)

The President of the Republic shall not refuse the promulgation of the revision laws .

Article 315 (Prohibition of revision)

In time of war or while the state of siege or emergency is in force no act of revision of the Constitution shall take place.

PART VII -- FINAL AND TRANSITORY PROVISIONS

Article 316 (Maintenance of functions)

The President of the Republic, the Deputies of the People's National Assembly and the holders of the organs of local administration shall remain in office until the end of the respective mandate, the duration of which shall be determined by the Constitution or by the law in force at the date of the respective elections.

Article 317 (Previous legislation)

The law in force prior to the entry into force of the present Constitution shall remain in force, unless it is contrary to the Constitution or to the principles enshrined therein.

Article 318 (Appointment of the holders of public office by President of the Republic)

1. The President of the Republic, shall within the period of ninety days from the date of the entry into force of the Constitution, appoint on the proposal of the Government, the General Prosecutor of the Republic , the President of the Court of Audit and the Chief of Staff of the Armed Forces.

2. The President of the Republic shall also, within the same period, appoint one judge to the Supreme Court of Justice, two members of the Council of the Republic and two members of the Supreme Council of Magistrates.

Article 319 (Appointment of the holders of political or public office by the National Assembly)

The National Assembly shall, within the period of ninety days from the date of the entry into force of the Constitution, meet to elect one judge to the Supreme Court of Justice, two members of the Council of the Republic and three members of the Supreme Council of Magistrates.

Article 320 (Election of the judges for the Supreme Council of Magistrates)

The judges shall proceed to elect their respective peers to the Supreme Council of Magistrates within a period not exceeding ninety days from the date of the entry into force of the Constitution.

Article 321 (Meeting of the Supreme Council of Magistrates)

The Supreme Council of Magistrates may meet, within a period not exceeding one hundred and twenty days from the date of the entry into force of the present Constitution, to appoint, at least, three judges for the Supreme Court of Justice.

Article 322 (Termination of functions)

1. The judges who, on the date of the entry into force of the present Constitution, are exercising the functions of the judges of the Supreme Court of Justice, shall terminate their functions upon the coming into office of the judges appointed in accordance with the present Constitution.

2. The current Chief Justice of the Supreme Court of Justice shall exercise, until the coming into office of the holder of the office appointed in accordance with the present Constitution, all the functions assigned by the Constitution to the Chief Justice of the Supreme Court of Justice.

3. The current General Prosecutor of the Republic shall cease his functions upon the coming into office of the General Prosecutor of the Republic appointed in accordance with the present Constitution.

4. The current President of the Court of Audit shall cease his functions upon the coming into office of the President of the Court of Audit appointed in accordance with this Constitution.

5. The current Chief of Staff of the Armed Forces shall cease his function upon the coming into office of the Chief of Staff of the Armed Forces, appointed in accordance with the present Constitution.

The President of the People's National Assembly, Amilcar Fernandes Spencer Lopes.