

CONSTITUTION OF THE REPUBLIC OF GUINEA-BISSAU

*Adopted in 1984,
Amended in 1991, 1993, 1996*

PREAMBLE

In an exemplary manner the Party for the Independence of Guinea and Cape Verde (PAIGC), having been founded on 19 September 1956, has accomplished its political and military action plan [*Programa Minimo*], consisting of liberating the people of Guinea and Cape Verde, winning the sovereignty of the two respective states simultaneously, for the purpose of building a free and democratic society and social justice in each nation.

The Party consecrated the independence, winning internal and international harmony, respect and admiration as the form for directing the future of the Guinea nation, namely through the creation and institutionalisation of the state structure.

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Adopting this Constitution, which follows faithfully the thread of institutional evolution that has always reflected the ideas and choices of our people - a policy reaffirmed by the profound transformation being brought about in our society by legality, by right and by the enjoyment of fundamental liberties - the National Popular Assembly of the Republic of Guinea-Bissau reveals that everything it articulates is imbued with the humanism that has always inspired us and that is reflected in our rights and liberties as herein guaranteed to the citizens, as an irreversible victory for our people.

The Popular National Assembly congratulates the PAIGC on paper for being in the vanguard involved in unfolding the conduct of the destiny of the nation and congratulates itself for the courageous and timely decision that the Party of Amilcar Cabral took to support and expand the democratic opening to construct a pluralistic, just and free society.

The decision of the PAIGC follows in accordance with its historic tradition of acting at every moment as the repository for the deepest aspirations of our people.

Therefore, acting as a faithful interpreter of the will of the people and exercising its responsibilities as the highest sovereign organ, the National Popular Assembly approves and adopts this Constitution of the Republic of Guinea-Bissau as Fundamental Law, which shall enter into force on 6 May 1984.

PART I: FUNDAMENTAL PRINCIPLES

Article 1

Guinea-Bissau is a sovereign, democratic, secular and unitary republic.

Article 2

- (1) The national sovereignty of the Republic of Guinea-Bissau is vested in the people.
- (2) The exercise of political power is vested in the people directly or through the democratically elected organs.

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Article 4

- (1) In the Republic of Guinea-Bissau the establishment of political parties is allowed in conformity with the Constitution and the law.

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Article 6

- (1) In the Republic of Guinea-Bissau there shall be separation between the state and religious institutions.

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PART II: FUNDAMENTAL RIGHTS AND DUTIES

Article 24

All persons are equal before the law, enjoy the same rights and are subjected to the same duties, without distinction as to race, social status, intellectual or cultural level, religious belief or philosophical conviction.

Article 25

Men and women are equal before the law in all aspects of political, economic, social and cultural life.

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Article 28

(1) Foreigners and expatriates that reside or are in Guinea-Bissau enjoy the same rights and are subject to the same duties as nationals, with the exception of political rights, holding of public offices and other laws expressly applicable to nationals.

(2) The holding of public offices can only be granted to foreigners if it is of a technical nature, except when called for by an international accord or agreement.

Article 29

(1) Fundamental rights enshrined in the Constitution do not negate other rights foreseen by the laws of the Republic and applicable rules of international law.

(2) Constitutional and legal procedures relating to fundamental rights have to be interpreted in harmony with the Universal Declaration of Human Rights.

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Article 31

(1) Martial law or a state of emergency can only be declared, in the whole or part of the national territory, in cases of foreign aggression, grave threat or disturbance of the democratic constitutional order or political calamity.

(2) The declaration of martial law cannot affect the right to life, integrity and identity, civil capacity and citizenship, non-retroactivity of penal laws, right to defence of the accused and liberty of conscience and religion.

(3) The declaration of a state of emergency can only result in the partial suspension of rights, liberties and guarantees.

Article 32

All citizens have the right of access to judicial organs to seek redress for violations of their constitutionally recognised rights and the law. Justice cannot be denied on economic grounds.

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Article 34

Everyone has the right to information and judicial protection, in accordance with the law.

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Article 36

(1) In the Republic of Guinea-Bissau the death penalty shall not be applied in any cases.

(2) There shall be life imprisonment for crimes defined by law.

Article 37

(1) The moral and physical integrity of citizens cannot be violated.

(2) No one shall be submitted to torture or to cruel, inhuman or degrading treatment.

(3) In no case shall there be forced labour, nor security measures depriving liberty for unlimited or indefinite periods.

(4) Criminal responsibility is personal and cannot be passed on.

Article 38

(1) All citizens enjoy the inviolability of their persons.

(2) No one shall be totally or partially deprived of liberty except as a consequence of judicial sentencing, condemned for acts punishable by law with prison sentencing or the judicial application of security measures.

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(4) The law cannot be retroactive, unless this is of benefit to the accused.

Article 39

(1) All persons deprived of liberty must be informed immediately of the reasons for their detention. Restrictions on liberty imposed for reasons contrary to the Constitution and law oblige the state to indemnify the aggrieved, in accordance with the law.

(2) Imprisonment or illegal detention resulting from an abuse of power confers on the citizen the right to *habeas corpus*.

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Article 45

(1) Workers have the freedom to join trade unions as a form of promoting unity, defending their rights and protecting their interests.

(2) In the exercise of the freedom to join a trade union, the worker is guaranteed, without any discrimination:

(a) Liberty of establishing, organising and internal rules of associations;

- (b) The right to exercise trade union activities in companies, in accordance with the law.
- (3) Trade unions are independent from the state, patronage, religious beliefs, political parties or associations.
- (4) The law ensures adequate protection to trade union representatives against any form of restriction on the legitimate undertaking of their functions.
- (5) Trade unions have to abide by the principles of the organisation and democratic management, provided by the periodic elections by secret ballot of executive organs...

Article 46

- (1) Workers have a right to protection, security and hygiene at work.
- (2) The worker can only be dismissed in accordance with the law; dismissal for political or ideological motives is prohibited.
- (3) The state will gradually establish a system capable of guaranteeing workers social security pensions, in sickness or when incapacitated.

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Article 48

- (1) The state recognises the citizens' right to inviolability of domicile, correspondence and other means of private communication, except in cases expressly provided by the law in relation to criminal process.
- (2) Entrance into homes without consent can only be ordered by the competent judicial authority in accordance with the law.

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Article 55

- (1) Citizens have the right to, freely and without dependency to any authority, start associations, as long as they are not promoting violence and the objectives are not contrary to the law.
- (2) Associations conduct their affairs freely without interference of public authorities and cannot be dissolved by the state or have its activities suspended unless in cases provided for by the law and as a result of judicial decision.
- (3) Armed associations are not allowed, nor organisations that promote racism or tribalism.

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Article 57

Political parties have the right to airtime on the radio and television in accordance with the law.

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PART III: ORGANISATION OF POLITICAL POWER

Article 59

- (1) The President of the Republic, the National Popular Assembly, the government and tribunals are sovereign organs.
- (2) The organisation of political power is based on separation and independence of organs of sovereignty and the subordination of all of them to the Constitution.

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Article 62

- (1) The President of the Republic is the Head of State, symbol of unity, guarantor of national independence and the Constitution and supreme commander of the Armed Forces.
- (2) The President of the Republic represents the Republic of Guinea-Bissau.

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Article 73

The Council of State is the political organ of consultation of the President of the Republic.

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Article 76

The National Popular Assembly is the supreme legislative organ and political overseer, representative of all Guineans. It pronounces on fundamental issues of internal and external politics of the state.

Article 77

Deputies of the National Popular Assembly are elected according to electoral districts defined by law by universal suffrage which is free, equal, direct, secret and periodic.

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Article 96

- (1) The government is the supreme executive and administrative organ of the Republic of Guinea-Bissau.
- (2) The government conducts the general politics of the country in accordance with its program, approved by the National Popular Assembly.

Article 97

- (1) The government is constituted by the Prime Minister, by ministers and by secretaries of state.
- (2) The Prime Minister is the head of the government, it is his duty to guide and coordinate its action and ensure the execution of the laws.
- (3) It is incumbent upon the Prime Minister, without prejudice to other attributions that are conferred on him by the Constitution and the law, to inform the President of the Republic on issues regarding the internal and external politics of the country.

Article 98

- (1) The Prime Minister is nominated by the President of the Republic in accordance with electoral results and after consulting with political parties represented in the National Popular Assembly.
- (2) Ministers and secretaries of state are nominated by the President of the Republic, on the proposal of the Prime Minister.

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Article 119

Tribunals are organs of sovereignty with competence to administer justice on behalf of the people.

Article 120

- (1) The Supreme Court of Justice is the supreme judicial instance of the Republic. The Superior Council of the Magistrate nominates its judges.
- (2) Judges of the Supreme Court of Justice are sworn in by the President of the Republic.
- (3) It is incumbent upon the Supreme Court of Justice and tribunals instituted by law to exercise the jurisdictional function.
- (4) In the exercise of their jurisdictional function, tribunals are independent and only subjected to the law.

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Article 127

- (1) The National Popular Assembly can revise the present Constitution at any time.
- (2) The initiative of Constitutional revision falls within the competence of the deputies.

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