

<b>Country/entity</b>	Democratic Republic of Congo
<b>Region</b>	Africa (excl MENA)
<b>Agreement name</b>	Draft Constitution of the Transition
<b>Date</b>	1 Apr 2003
<b>Agreement status</b>	Multiparty signed/agreed
<b>Interim arrangement</b>	Yes
<b>Agreement/conflict level</b>	Intrastate/intrastate conflict

### **Congo Civil Wars (1996 - )**

The overthrow of the long-term dictator Mobutu Sese Seko by a rebel Tutsi army backed by Uganda and Rwanda in 1997 acted as a catalyst for a war with regional dimensions, mainly fought in the eastern Kivu provinces. The conflict escalated in 1998, when President Laurent Kabila, then backed by Zimbabwean and Angolan troops, ordered Rwanda and Uganda to leave. After Kabila's assassination in 2001, his son Joseph took over the presidency and won in the 2006 democratic elections.

In the eastern provinces, Tutsi-led militias, mainly organised in the National Congress for the Defense of the People (CNDP), fought the remnants of the Rwandan Hutu force FDLR, with further involvement of Rwandan and Ugandan troops. Other regionally operating militia groups, like the Lord's Resistance Army from Northern Uganda, the so-called Mai Mai groups or short-lived guerrilla outfits like the March 23 Movement (M23) further contributed, and still contribute, to the complexity of the situation in eastern DRC.

Close

Congo Civil Wars (1996 - )

<b>Stage</b>	Framework/substantive - comprehensive
<b>Conflict nature</b>	Government
<b>Peace process</b>	DRC: Second Congo war process

**Parties**

For the Rassemblement Congolais pour la Démocratie / Mouvement de Libération du Congo (RCD-ML): (three signatories all illegible)

For the Rassemblement Congolais pour la Démocratie/National (RCD-N):  
[Signature illegible]

For the Maï-Maï:

Subject to reservations: - Problem of nationality, idea of an “integrated nation”, the Head of State has to be the Head of Government at the same time.

29 SIGNATORIES For the Political Opposition (no signatures in the document)

27 SIGNATORIES For Civil Society (no signatures in the document)

**Third parties**

WITNESSES:

His Excellency Mr Thabo Mbeki, President of the Republic of South Africa and Chairman in office of the African Union, represented by His Excellency His Excellency Mr Sydney Mufamadi, Minister of Provincial and Local Government,

His Excellency Mr Moustapha Niasse, Special Envoy of the Secretary General of the United Nations for Inter-Congolese Dialogue, representing His Excellency Mr Kofi Annan, Secretary General of the OAU

**Description**

The Transition Constitution, which was established as a result of the 2002 Global and Inclusive Agreement of Sun City (and was in effect until the current constitution came into force in 2006). The transition Parliament is bicameral. It entrusts the Senate of designing the draft Constitution, which will be submitted to referendum. The Senate has the mandate to act as mediator between institutions in case of political conflicts. Moreover, it sets out the composition of the Senate which shall be composed of 120 members, appointed by the ICD bodies and entities, which shall ensure the representation of all provinces as well as women. It also sets out the role and composition of the Presidency and Vice-Presidency, Government, the National Assembly and relations between the executive power and the legislative power, and the Judiciary. It also sets out the basic rights and duties of the citizen. And establishes five institutions for the promotion of democracy, including: The Independent Electoral Commission, The National Human Rights Commission, The Media Council, The Truth and Reconciliation Commission, The Ethics and Corruption Commission.

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**Agreement document**

[DRC\\_030401-Draft Constitution of the Transition.pdf \(opens in new tab\)](#) | [Download PDF](#)

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**Groups**

## Children/youth

Groups→Children/youth→Rhetorical

Page 2, Untitled Preamble,

DETERMINED to guarantee the basic freedom and rights of the Congolese citizen and, in particular, to defend those of women and children;

Groups→Children/youth→Substantive

Page 14-15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 43

For parents the care and education to be given to children shall constitute a natural right and duty that they shall exercise under the supervision and with the assistance of the public authorities.

...

Children shall have the right to assist their parents.

Page 15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 44

All children shall have the right to know the names of their father and mother.

All children shall have the right to enjoy the protection of their family, society and the public authorities.

The State shall be obliged to protect the child against prostitution, procuring, homosexuality, incest, paedophilia, sexual harassment and all other forms of sexual perversion.

Page 15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 45

The public authorities shall be obliged to protect the youth against any attack on their health, education or moral development.

Youth organisations shall play an educational role.

The public authorities shall be obliged to give them their support.

Page 15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 46

...

The parents shall, by priority, have the right to choose the type of education to be given to their children.

Education shall be compulsory up to the level of studies and the age stipulated by law.

Page 48, TITLE IV: ORGANISING AND EXERCISING POWER, SECTION II: THE ARMED FORCES, CHAPTER IV: THE CONGOLESE NATIONAL POLICE FORCE AND THE CONGOLESE ARMED FORCES,

Article 182:

No one, under sentence of high treason, may organise military or paramilitary training or form private militia armies, or maintain an armed or subversive youth movement.

Page 47-48, SECTION II: THE ARMED FORCES

...

Article 184

No one may be recruited into the Congolese Armed Forces, or participate in wars or hostilities, if they are under the age of eighteen at the time of recruitment.

<b>Disabled persons</b>	<p>Groups→Disabled persons→Substantive</p> <p>Page 17, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 52</p> <p>Aged, handicapped persons and invalids shall have the right to special measures of protection with regard to their physical, intellectual and moral requirements.</p>
<b>Elderly/age</b>	<p>Groups→Elderly/age→Substantive</p> <p>Page 17, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 52</p> <p>Aged, handicapped persons and invalids shall have the right to special measures of protection with regard to their physical, intellectual and moral requirements.</p>
<b>Migrant workers</b>	<p>No specific mention.</p>
<b>Racial/ethnic/ national group</b>	<p>Groups→Racial/ethnic/national group→Anti-discrimination</p> <p>Page 7, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 17</p> <p>All Congolese shall be equal before the law and shall have the right to equal protection of laws. A Congolese person may not, with regard to education and access to public functions or any other matter, be the subject of a discriminatory measure, irrespective of whether it results from the law or an act of the executive, for reasons of religion, sex, family origin, social condition, residence, opinions or political convictions, allegiance to a race, ethnic group, tribe, cultural or linguistic minority.</p> <p>Page 12, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 33:</p> <p>...</p> <p>No Congolese person may, for political, ethnic or other reasons, be compelled to go into exile or to reside outside of the normal place of his/her residence.</p> <p>Page 12, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 35:</p> <p>The right of asylum shall be recognised.</p> <p>Subject to national security the Republic shall grant asylum on its territory to foreign nationals pursued or persecuted due in particular to their opinions, beliefs, their allegiance to a racial, tribal, ethnic, linguistic group or their action in favour of democracy and the defence of Human Rights, in accordance with laws and regulations in force.</p> <p>Groups→Racial/ethnic/national group→Substantive</p> <p>Page 6, CHAPTER II: SOVEREIGNTY, Article 14</p> <p>All ethnic groups and nationalities of persons and territories constituting that which has become the Congo (currently the Democratic Republic of the Congo) at independence shall enjoy equal rights and protection in terms of the law as citizens.</p>

**Religious groups**

Groups→Religious groups→Anti-discrimination

Page 7, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 17

All Congolese shall be equal before the law and shall have the right to equal protection of laws. A Congolese person may not, with regard to education and access to public functions or any other matter, be the subject of a discriminatory measure, irrespective of whether it results from the law or an act of the executive, for reasons of religion, sex, family origin, social condition, residence, opinions or political convictions, allegiance to a race, ethnic group, tribe, cultural or linguistic minority.

Page 12, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 35:

The right of asylum shall be recognised.

Subject to national security the Republic shall grant asylum on its territory to foreign nationals pursued or persecuted due in particular to their opinions, beliefs, their allegiance to a racial, tribal, ethnic, linguistic group or their action in favour of democracy and the defence of Human Rights, in accordance with laws and regulations in force.

Groups→Religious groups→Substantive

Page 10, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 26

In the Democratic Republic of Congo, there shall be no State religion. All persons shall have the right to freedom of thought, conscience and religion. All persons shall have the right to express their religion or convictions alone or jointly, both in public and in private, by worship, teaching, practises, carrying out of rites and the state of religious life, subject to the respecting of the law, public order and morality.

The law shall set the conditions of the constitution of organisations.

**Indigenous people** No specific mention.

**Other groups** No specific mention.

**Refugees/displaced persons** Groups→Refugees/displaced persons→Substantive  
Page 12, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 35

The right of asylum shall be recognised.

Subject to national security the Republic shall grant asylum on its territory to foreign nationals pursued or persecuted due in particular to their opinions, beliefs, their allegiance to a racial, tribal, ethnic, linguistic group or their action in favour of democracy and the defence of Human Rights, in accordance with laws and regulations in force.

It shall be forbidden for any person legally enjoying the right of asylum to undertake a subversive activity against his/her country of origin or against any other country from the territory of the Democratic Republic of Congo.

The law shall set the terms and conditions for exercising this right.

**Social class** Groups→Social class→Anti-discrimination  
Page 8, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 17

All Congolese shall be equal before the law and shall have the right to equal protection of laws. A Congolese person may not, with regard to education and access to public functions or any other matter, be the subject of a discriminatory measure, irrespective of whether it results from the law or an act of the executive, for reasons of religion, sex, family origin, social condition, residence, opinions or political convictions, allegiance to a race, ethnic group, tribe, cultural or linguistic minority.

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**Gender**



**Women, girls and gender**

Page 2, Preamble:

[...]

DETERMINED to guarantee the basic freedom and rights of the Congolese citizen and, in particular, to defend those of women and children;

Page 3, Preamble:

[...]

ENDEAVOURING to guarantee a peaceful transition in the Democratic Republic of Congo operating according to the principles of consensus, inclusiveness and non-conflict and based on as just a distribution as possible of different Government responsibilities between the Components and Entities to the inter- Congolese Dialogue, an appropriate representation of the Provinces and the different political sensitivities and, in particular, effective participation of women on all levels of responsibility, taking into account the criteria of competence, credibility and integrity, in a spirit of national reconciliation;

Page 6, CHAPTER II: SOVEREIGNTY Article 10

...

According to conditions determined by the law, the voters shall all be Congolese of both sexes, over the age of eighteen, who enjoy their civil and political rights.

Page 8, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 17

All Congolese shall be equal before the law and shall have the right to equal protection of laws.

A Congolese person may not, with regard to education and access to public functions or any other matter, be the subject of a discriminatory measure, irrespective of whether it results from the law or an act of the executive, for reasons of religion, sex, family origin, social condition, residence, opinions or political convictions, allegiance to a race, ethnic group, tribe, cultural or linguistic minority.

Page 13, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN,

Article 39

...

The working rights of an individual may not be harmed due to his/her origins, sex, opinions or beliefs.

Article 40

The right to create organisations shall be guaranteed.

Public authorities shall collaborate with private national associations that contribute to the social, economic, intellectual, cultural, moral and spiritual development of populations and education of male and female citizens.

Page 15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 44

**Men and boys**

No specific mention.

**LGBTI**

Gender→LGBTI→LGBTI (negative)

Page 14-15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN,

Article 43

...

All individuals shall have the right to marry a person of their choice, of the opposite sex and to create a family.

Article 44

...

The State shall be obliged to protect the child against prostitution, procuring, homosexuality, incest, paedophilia, sexual harassment and all other forms of sexual perversion.

## Family

Page 13, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 39:

...

The State shall guarantee the right to work, protection against unemployment and an equitable and satisfactory remuneration ensuring the worker as well as his family of a humanely dignified existence, together with other means of social protection.

Page 14-15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 43

All individuals shall have the right to marry a person of their choice, of the opposite sex and to create a family.

The family, basic unit of the human community shall be organised such that its unity and stability is ensured.

It shall be placed under the special protection of the public authorities.

For parents the care and education to be given to children shall constitute a natural right and duty that they shall exercise under the supervision and with the assistance of the public authorities.

Children shall have the right to assist their parents.

The law shall stipulate rules on marriage and the organisation of the family.

Page 15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 44:

All children shall have the right to know the names of their father and mother.

All children shall have the right to enjoy the protection of their family, society and the public authorities.

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**State definition**

**Nature of state  
(general)**

Page 2, Preamble:

[...]

Having Knowledge of the cultural and spiritual values deeply rooted in the traditions of solidarity and justice of the Congolese Nation, and aware of the cultural diversity, which is a spiritually enriching factor of the personality of our people: Convinced that only the values of equality, justice, freedom, democratic tolerance and social solidarity can found an integrated, fraternal, prosperous Nation that is master of its destiny in History;

DETERMINED to build a long-term lawful State based on political pluralism, the separation of powers between the executive, the legislature and judiciary, the participation of citizens in the exercising of power, the control of governments by those governed, transparency in the management of public matters, the subordination of the military Authority to the civil Authority, the protection of persons and their assets, full development both on a spiritual and moral level of each Congolese citizen, as well as the harmonious development of the national community;

Page 4, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 4

The Democratic Republic of Congo shall, within its borders of 30 June 1960, be an independent, sovereign, indivisible, democratic, social and secular State.

Page 6, CHAPTER II: SOVEREIGNTY Article 10

National sovereignty shall belong to the Nation. All power shall arise from the people, who shall exercise it directly by means of a referendum or elections and indirectly by their representatives.

No part of the nation or any individual may take upon itself to exercise sovereignty.

The law shall set the conditions for the organisation of elections and the referendum.

Page 6, CHAPTER II: SOVEREIGNTY, Article 11

Political pluralism shall be recognised in the Democratic Republic of Congo.

Political parties shall be obliged to respect the principles of multi -party democracy, national unity and sovereignty.

Page 10, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 26

In the Democratic Republic of Congo, there shall be no State religion.

All persons shall have the right to freedom of thought, conscience and religion. All persons shall have the right to express their religion or convictions alone or jointly, both in public and in private, by worship, teaching, practises, carrying out of rites and the state of religious life, subject to the respecting of the law, public order and morality.

**State configuration** State configuration

Page 5, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 5:

The Democratic Republic of Congo shall be a single decentralised State.

The Democratic Republic of the Congo consists of the city of Kinshasa and ten Provinces with legal status. These Provinces are: Bandundu, Lower Congo, Equateur, Western Kasai, Eastern Kasai, Katanga, Maniema, North Kivu, Eastern Province and South Kivu.

The city of Kinshasa, with its current boundaries, shall be the capital of the Democratic Republic of the Congo.

The organisation and functioning of the city of Kinshasa and the Provinces as well as the division of authority between the State and the Provinces shall be determined in an organic law to be passed during the first sitting of the National Assembly and the Senate.

Page 5, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 6:

No person may interfere with the integrity of the territory, national unity and the sovereignty of the Congolese State.

All the central, provincial and local authorities shall have the duty to safeguard the integrity of the Republic, sovereignty and national unity, subject to treason or high treason, depending on the circumstances.

Page 5, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 7:

The State shall see to the harmonious development of all decentralised entities on the basis of national solidarity by the effective implementation of mechanisms instituting administrative and financial autonomy as provided in the law.

**Self determination** No specific mention.

**Referendum**

Page 6, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER II: SOVEREIGNTY, Article 10:

National sovereignty shall belong to the Nation. All power shall arise from the people, who shall exercise it directly by means of a referendum or elections and indirectly by their representatives.

The law shall set the conditions for the organisation of elections and the referendum.

Page 50, CHAPTER VI: INTERNATIONAL TREATIES AND AGREEMENTS,

Article 192

....

No transfer, exchange or addition of territory can be authorised without the agreement of the people affected, with consultation being conducted by means of a referendum.

**State symbols**

Page 4, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 4:

Its emblem shall be a sky-blue flag with a large yellow star in the centre and six small yellow stars all of the same size and set longitudinally along the side of the flagpole.

The national anthem shall be “Debout Congolais”.

The motto shall be “Democracy, Justice, Unity”.

Its coat of arms shall consist of a lion’s head framed by two laurel branches with hands crossed in the centre.

The national languages shall be: Kikongo, Lingala, Swahili and Tshiluba.

The official language shall be French.

**Independence/  
secession** No specific mention.

**Accession/  
unification** No specific mention.

**Border delimitation** Page 4, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 4:  
The Democratic Republic of Congo shall, within its borders of 30 June 1960, be an  
independent, sovereign, indivisible, democratic, social and secular State.

**Cross-border  
provision** No specific mention.

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**Governance**



**Political institutions (new or reformed)** Governance→Political institutions (new or reformed)→Temporary new institutions  
Page 19-21, TITLE IV: ORGANISING AND EXERCISING POWER, CHAPTER I: THE INSTITUTIONS OF THE REPUBLIC, ARTICLE 64:

[Summary]

The political institutions of the transition are as follows:

- The President of the Republic,
- The Government
- The Parliament
- The Senate
- Courts and tribunals

SECTION I: EXECUTIVE POWER PARAGRAPH 1: THE PRESIDENT OF THE REPUBLIC  
ARTICLE 65

The President of the Republic who is in office at the time of the promulgation of the Transition Constitution remains in office for the whole duration of the transition period, subject to the application of the provisions of Article 66 of this Constitution.

ARTICLE 66

Without prejudice to the other provisions of this Constitution, the duties of the President of the Republic end through resignation, death, unavoidable difficulty, high treason, embezzlement or misappropriation of public funds and corruption.

Once the vacancy has been acknowledged by the Supreme Court once the matter was referred to the said Court by the Government, the Vice-President who belongs to the Component, to whom the President of the Republic belongs, stands in as acting President.

The said Component presents the replacement of the President of the Republic to the National Assembly for ratification purposes within seven days. If the National Assembly is not in session, an extraordinary session shall be convened forthwith for this specific purpose in accordance with Article 115 of this Constitution.

Article 69

The President of the Republic convenes and chairs the Council of Ministers once every 15 days at least.

Article 70

The President of the Republic promulgates the laws according to the conditions defined in articles 129 and 132 of this Constitution.

Article 71

The President of the Republic ensures the execution of the laws and exercises the regulatory power by means of decrees deliberated by the Council of Ministers.

Article 72

The President of the Republic is the Supreme Commander of the Armed Forces. He presides the High Council for Defence.

He appoints the army and police officers, relieves them of their functions and, if need be, after deliberation of the High Council for Defence mentioned in Article 187 of this Constitution.

Article 74

## **Elections**

Page 6, CHAPTER II: SOVEREIGNTY, Article 10

National sovereignty shall belong to the Nation. All power shall arise from the people, who shall exercise it directly by means of a referendum or elections and indirectly by their representatives.

No part of the nation or any individual may take upon itself to exercise sovereignty.

The law shall set the conditions for the organisation of elections and the referendum.

Suffrage shall be universal, equal and secret. It shall be direct or indirect.

According to conditions determined by the law, the voters shall all be Congolese of both sexes, over the age of eighteen, who enjoy their civil and political rights.

...

Page 6, CHAPTER II: SOVEREIGNTY, Article 12

Political parties may receive public funds from the State destined to finance their electoral campaigns or their activities, according to conditions defined by law.

Page 51, CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS, Article 196:

The transition period is twenty-four months. It takes effect from the time the transitional Government is formed and ends with the investiture of the President of the Republic, duly elected following the elections which mark the end of the transitional period in the Democratic Republic of Congo.

However, because of problems specifically linked to the organisation of elections, the transitional period may be extended for a further six months, renewable one more time should circumstances demand, on the advice of the Independent Electoral Commission and by a joint and properly justified decision of the National Assembly and the Senate.

**Electoral  
commission**

Page 43, CHAPTER II: INSTITUTIONS FOR THE PROMOTION OF DEMOCRACY, Article 154

Institutions for the promotion of democracy are:

- The Independent electoral commission
- The National Human Rights Commission
- The Media Council
- The Truth and Reconciliation Commission
- The Ethics and Corruption Commission

Page 43, CHAPTER II: INSTITUTIONS FOR THE PROMOTION OF DEMOCRACY, Article 155:

The role of these institutions for democracy is:

- to guarantee the neutrality and impartiality of the process for holding free and transparent democratic elections;

Page 51:

CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS

Article 196

The transition period is twenty-four months. It takes effect from the time the transitional Government is formed and ends with the investiture of the President of the Republic, duly elected following the elections which mark the end of the transitional period in the Democratic Republic of Congo.

However, because of problems specifically linked to the organisation of elections, the transitional period may be extended for a further six months, renewable one more time should circumstances demand, on the advice of the Independent Electoral Commission and by a joint and properly justified decision of the National Assembly and the Senate.

**Political parties  
reform**

Governance→Political parties reform→Other political parties reform

Page 6, CHAPTER II: SOVEREIGNTY Article 10

Article 12

Political parties may receive public funds from the State destined to finance their electoral campaigns or their activities, according to conditions defined by law.

**Civil society**

Page 6, CHAPTER II: SOVEREIGNTY, Article 11

...

The political parties shall contribute to the expression of suffrage, the formation of national conscience and citizenship training. They shall form and freely exercise their activities whilst respecting the law, public order and morality.

Page 11, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 26

...

The law shall set the conditions of the constitution of religious organisations.

Page 11, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 30

The freedom of peaceful meetings and demonstrations shall be guaranteed subject to the respecting of public order. All persons shall have the right to meet or demonstrate and no one can be compelled thereto.

The law shall set the terms and conditions of application of the present provision.

Article 31

All Congolese persons shall have the right, individually or collectively, to submit a peaceful petition to the public authority.

No person may be the subject of discrimination for having taken part in such petition.

...

(Page 14) Article 40

The right to create organisations shall be guaranteed.

Public authorities shall collaborate with private national associations that contribute to the social, economic, intellectual, cultural, moral and spiritual development of populations and education of male and female citizens.

This collaboration may take the form of assistance by means of subsidies. The law shall stipulate the terms and conditions for the exercising of this right.

Page 33, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118

Without prejudice to the other related provisions of this Constitution, the law sets out the fundamental principles regarding:

...

- the political and trade union pluralism
- the right to strike;

**Traditional/  
religious leaders**

No specific mention.

**Public  
administration**

Page 4, TITLE I: GENERAL PROVISIONS, Article 3

...

No person may divert the attributes of power and public power for personal needs in the carrying out of partisan interests or to facilitate interference of an institution or public service in the operating of another institution or another public service.

Page 25, SECTION I, PARAGRAPH IV, ARTICLE 94:

The Government has the public administration, the armed forces, the national police as well as the civil security and civil protection services at its disposal.

Page 32, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118

Without prejudice to the other related provisions of this Constitution, the law sets out the rules regarding:

...

- The status of the civil service;

## Constitution

Governance→Constitution→Constitutional reform/making

This is the Draft Constitution of the Transition, thus entirety of the document deals with constitutional reform/making.

Page 3, TITLE I: GENERAL PROVISIONS, Article 1

...

The Comprehensive and Inclusive Agreement and the Constitution shall be the sole source of power during the transition in the Democratic Republic of the Congo.

Page 26, PARAGRAPH I: THE NATIONAL ASSEMBLY, Article 98

...

- adopts the Constitution project to be subjected to a referendum.

Page 28, PARAGRAPH II: SENATE Article 104

Without prejudice to the other provisions of this Constitution and to the laws of the Republic, the Senate is entrusted with a mediation mission regarding the political conflicts between the institutions.

It is responsible to prepare the blueprint of the Constitution to be submitted to a referendum.

Page 52-53, CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS,

Article 202

All previous constitutional provisions, in particular Statutory Order No. 03 of May 27th 1997 pertaining to the exercise of power as modified to date, are repealed and replaced by this Transitional Constitution of the Democratic Republic of Congo.

Article 203

Legislation currently in force, where it is not contrary to the Transitional Constitution, remains applicable for as long as it is not amended or repealed.

Article 204

The Transitional Constitution is adopted by the Plenary Session of the Inter-Congolese Dialogue.

It shall come into effect on the date it is promulgated by the President of the Republic, three full days after it has been adopted.

Article 205

The Transitional Constitution ceases to have effect when a Constitution is adopted at the end of the transitional period.

**Power sharing**

**Political power sharing**

Power sharing→Political power sharing→Executive coalition  
State level  
Page 22, PARAGRAPH II: PRESIDENCY OF THE REPUBLIC, Article 80

The Presidency of the Republic is made of the President of the Republic and four Vice-Presidents.

The President of the Republic ensures, with the Vice-Presidents, the necessary and exemplary leadership in the interest of the national unity of the democratic Republic of the Congo.

Article 81

The President of the Republic, with the Vice-Presidents, deals with all the questions regarding the management of the Government.

Article 82

The President of the Republic holds restricted meetings with the Vice-Presidents regarding all the matters concerning the management of the Government.

The meetings between the President and the Vice-Presidents are held regularly once every second week at least and, in all cases, before each meeting of the Council of Ministers.

The meetings between the President and the Vice-presidents are convened by the President of the Republic, on his own initiative or on request from a Vice-President.

In the case of temporary unforeseen difficulties, the meetings are chaired, taking turns, by a Vice-President designated by the President of the Republic.

Page 22, PARAGRAPH III: VICE-PRESIDENTS OF THE REPUBLIC Article 83

Four posts of Vice-President are instituted.

The Vice-Presidents come the following Components: Government of the Democratic Republic of the Congo, the Rassemblement Congolais pour la Démocratie (RCD), the Mouvement pour la Libération du Congo (MLC) and the Political Opposition.

Power sharing→Political power sharing→Proportionality in legislature  
State level

Page 26-27, PARAGRAPH I: THE NATIONAL ASSEMBLY

Article 98

Without prejudice to its other prerogatives that are acknowledged by this Constitution, the National Assembly:

- votes on and passes acts;
- controls the Government, government-owned firms, public corporations and the public services;
- controls the implementation of the Resolutions of the Inter-Congolese Dialogue;
- adopts the Constitution project to be subjected to a referendum.

Article 99

The National Assembly comprises 500 members designated by the Components and Entities of the Inter-Congolese Dialogue according to the conditions defined in Annexure I B of the Global and Inclusive Agreement.



**Territorial power sharing** No specific mention.

**Economic power sharing** No specific mention.

**Military power sharing** No specific mention.

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**Human rights and equality**

**Human rights/RoL  
general**

Page 2, Preamble:

Solemnly reaffirming our attachment to principles of democracy and Human Rights such as they are defined by the universal Human Rights Declaration of 10 December 1948, the African Charter on Human and People's Rights adopted on 18 June 1981, as well as all international and regional legal instruments adopted within the framework of the United Nations Organisation and of the African Union duly ratified by the Democratic Republic of Congo;

DETERMINED to guarantee the basic freedom and rights of the Congolese citizen and, in particular, to defend those of women and children;

Page 4, TITLE I: GENERAL PROVISIONS, Article 2:

The Constitution of the transition guarantees the inviolability of the fundamental rights and liberties of the individual.

Any law that does not comply with the present Constitution shall be null and void insofar as this non-compliance has been established by the Supreme Court of Justice.

Page 9-10, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 25:

No person shall be obliged to execute an order that is clearly illegal, in particular if such order deprives the individual of his freedom and basic rights.

The proof of such manifest illegality shall be incumbent upon the person who refuses to execute it.

Page 16, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 47:

Through teaching, education and distribution, the public authorities shall be obliged to promote and to ensure the respect of Human rights, basic freedom and rights of the citizen as stated in the present Constitution.

The State shall be obliged to ensure the spreading and teaching of the Constitution, the universal Declaration of Human Rights, the African Charter on Human and People's Rights, as well as all the duly ratified regional and international instruments relating to Human rights and to international humanitarian law.

The State shall be obliged to integrate the rights of the individual in all training programmes of the armed forces, the police and security services.

Page 18, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 57:

The state shall protect the rights and interests of the Congolese abroad.

Page 18, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 58:

Subject to reciprocity, any foreigner that is legally present on national territory shall benefit from the same rights and freedom as the Congolese, except for political rights.

He/she shall benefit from protection granted to persons and their assets according to conditions determined by treaties and laws.

He/she shall be obliged to comply with the laws and regulations of the Republic.

Page 18, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 61:

The respect of Human rights and basic freedom established in the present Constitution shall be incumbent upon all citizens and public authorities.

Page 32, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118:

Without prejudice to the other related provisions of this Constitution, the law sets out

**Bill of rights/similar** No specific mention.

**Treaty  
incorporation**

Page 2, Preamble:

SOLEMNLY REAFFIRMING our attachment to principles of democracy and Human Rights such as they are defined by the universal Human Rights Declaration of 10 December 1948, the African Charter on Human and People's Rights adopted on 18 June 1981, as well as all international and regional legal instruments adopted within the framework of the United Nations Organisation and of the African Union duly ratified by the Democratic Republic of Congo;

Page 16, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 47:

Through teaching, education and distribution, the public authorities shall be obliged to promote and to ensure the respect of Human rights, basic freedom and rights of the citizen as stated in the present Constitution.

The State shall be obliged to ensure the spreading and teaching of the Constitution, the universal Declaration of Human Rights, the African Charter on Human and People's Rights, as well as all the duly ratified regional and international instruments relating to Human rights and to international humanitarian law.

The State shall be obliged to integrate the rights of the individual in all training programmes of the armed forces, the police and security services.

Page 150, CHAPTER VI: INTERNATIONAL TREATIES AND AGREEMENTS, Article 191:

The President of the Republic ratifies or approves international treaties and agreements. The Government concludes international agreements not subject to ratification, once a decision has been taken by the Cabinet. The National Assembly is advised of such agreements.

Page 150, CHAPTER VI: INTERNATIONAL TREATIES AND AGREEMENTS, Article 192:

Peace treaties, trade agreements, treaties and accords relating to international organisations and the settlement of international disputes, those which involve public finance, those which amend legislative provisions, those which relate to the status of individuals, or those which entail the exchange and addition of territory, can only be ratified or approved according to the law.

No transfer, exchange or addition of territory can be authorised without the agreement of the people affected, with consultation being conducted by means of a referendum.

Page 150, CHAPTER VI: INTERNATIONAL TREATIES AND AGREEMENTS, Article 193:

Regularly concluded international treaties and agreements have, when published, greater authority than the law, provided that each treaty or agreement is implemented by the other party.

Page 150, CHAPTER VI: INTERNATIONAL TREATIES AND AGREEMENTS, Article 194:

If the Supreme Court, having been consulted by the Government, the National Assembly or the Senate, declares that an international treaty or agreement includes a clause which is contrary to the present Constitution, ratification or approval may only occur once the Constitution has been revised.

Page 150, CHAPTER VI: INTERNATIONAL TREATIES AND AGREEMENTS, Article 195:

The Democratic Republic of Congo may conclude joint treaties or partnership agreements which entail a partial relinquishment of sovereignty in order to achieve the goals of the African Union.

Page 51-52, CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS, Article 199:

At its first session the transitional National Assembly, in accordance with universal principles and international law, will adopt an Act granting amnesty for acts of war, political offences and views, with the exception of war crimes, crimes of genocide and

**Civil and political rights**

Human rights and equality→Civil and political rights→Life

Page 7, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 15:

The individual shall be sacred.

The State shall be obliged to respect and protect him/her.

All persons shall have the right to life and to physical wholeness.

...

No person may be deprived of life or freedom if it is not within the cases fixed by law and according to the forms stipulated by such law.

Human rights and equality→Civil and political rights→Torture

Page 7, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 15:

...

No person may be subject to torture or to inhumane, cruel or degrading treatment.

Human rights and equality→Civil and political rights→Equality

Page 2, Preamble:

CONVINCED that only the values of equality, justice, freedom, democratic tolerance and social solidarity can found an integrated, fraternal, prosperous Nation that is master of its destiny in History;

Page 6, CHAPTER II: SOVEREIGNTY, Article 14:

All ethnic groups and nationalities of persons and territories constituting that which has become the Congo (currently the Democratic Republic of the Congo) at independence shall enjoy equal rights and protection in terms of the law as citizens.

Page 7, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 17:

All Congolese shall be equal before the law and shall have the right to equal protection of laws.

A Congolese person may not, with regard to education and access to public functions or any other matter, be the subject of a discriminatory measure, irrespective of whether it results from the law or an act of the executive, for reasons of religion, sex, family origin, social condition, residence, opinions or political convictions, allegiance to a race, ethnic group, tribe, cultural or linguistic minority.

Page 17, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 51:

The State shall have the duty to ensure the elimination of all forms of discrimination with regard to women and to ensure the respect and promotion of their rights.

Page 18, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 60:

All Congolese shall be obliged to respect and treat their fellow citizens without any discrimination and to maintain relations with them that facilitate the safeguarding, promotion and reinforcement of national unity, mutual respect and tolerance.

Furthermore they shall have the duty to preserve and reinforce national solidarity.

Human rights and equality→Civil and political rights→Slavery

Page 8, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 18:

All persons shall have the right to the free development of his/her personality, without prejudice to the rights of others, public order and morality.

No person may be subject to slavery, servitude or similar conditions.

No person may be compelled to undertake forced or compulsory labour, except in cases stipulated by law.

Human rights and equality→Civil and political rights→Liberty and security of person

**Socio-economic rights**

Human rights and equality→Socio-economic rights→Property

Page 13, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 36:

Private property shall be sacred.

The State shall guarantee the right to personal or collective ownership in accordance with the law or customs.

The State shall encourage and ensure the safety of private national and foreign investments.

Page 13, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 37:

Expropriation for reasons of general interest or public utility may only take place in virtue of a law stipulating the prior payment of equitable compensation.

A person's assets may only be seized in virtue of a decision taken by a competent legal authority.

Page 13, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 38:

The exercising of art, commerce and industry, as well as the free movement of assets shall be guaranteed throughout the territory of the Republic, according to conditions stipulated by law.

Page 16, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 49:

... The Law shall guarantee royalties.

Human rights and equality→Socio-economic rights→Work

Page 13, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 39:

Work shall be a sacred duty and right for each Congolese.

The State shall guarantee the right to work, protection against unemployment and an equitable and satisfactory remuneration ensuring the worker as well as his family of a humanely dignified existence, together with other means of social protection.

The working rights of an individual may not be harmed due to his/her origins, sex, opinions or beliefs.

All Congolese shall have the right and duty to contribute through their work to national construction and prosperity.

The law shall establish the status of workers and regulate details pertaining to the legal regime of professions and the exercising of professions requiring a scholastic or academic qualification.

The internal structures and carrying out of professions must be democratic.

Page 14, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 41:

The right to unionisation shall be recognised in the Democratic Republic of Congo.

All Congolese shall have the right to form trade unions, companies or other organisations or to freely become members thereof to promote their well-being and to ensure the defence of their social, economic and cultural interests, according to conditions stipulated by law.

Nevertheless, members of the armed forces, law and order forces and security services may not form trade unions nor become members thereof.

Page 14, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 42:

The right to strike shall be recognised and guaranteed.

It shall be exercised according to conditions stipulated by law, which may forbid or limit





**Rights related issues**

## Citizenship

Rights related issues→Citizenship→Citizen, general

Page 2, Preamble:

...

DETERMINED to build a long-term lawful State based on political pluralism, the separation of powers between the executive, the legislature and judiciary, the participation of citizens in the exercising of power, the control of governments by those governed, transparency in the management of public matters, the subordination of the military Authority to the civil Authority, the protection of persons and their assets, full development both on a spiritual and moral level of each Congolese citizen, as well as the harmonious development of the national community;

...

DETERMINED to guarantee the basic freedom and rights of the Congolese citizen and, in particular, to defend those of women and children;

Page 4, TITLE I: GENERAL PROVISIONS, Article 3:

All Congolese shall have the sacred right and duty to defend the nation and their territorial integrity and to put a stop to any individual or group of individuals that takes the power by force or exercises it in violation of the provisions of the present Constitution.

Page 6, CHAPTER II: SOVEREIGNTY, Article 11:

...

All Congolese shall have the right to create a political party or to become a member of a party of their choice.

The political parties shall contribute to the expression of suffrage, the formation of national conscience and citizenship training. They shall form and freely exercise their activities whilst respecting the law, public order and morality.

Page 6, CHAPTER II: SOVEREIGNTY, Article 14:

All ethnic groups and nationalities of persons and territories constituting that which has become the Congo (currently the Democratic Republic of the Congo) at independence shall enjoy equal rights and protection in terms of the law as citizens. Congolese nationality shall be unique and exclusive. It may not be held concurrently with another nationality.

An organic law shall set the conditions of recognition, acquisition, loss and recovery of Congolese nationality.

[Page 7-18 - Summary - The TITLE III provides in its entirety for public freedom, basic rights and duties of the citizen. See the specific coding in the other human rights categories above.]

Page 26, PARAGRAPH I: THE NATIONAL ASSEMBLY, Article 99:

...

Nobody may be a Member of Parliament if he/she is not a Congolese citizen 25 years old at least at the time of his/her designation.

Page 28, PARAGRAPH II: SENATE, Article 104:

Without prejudice to the other provisions of this Constitution and to the laws of the Republic, the Senate is entrusted with a mediation mission regarding the political conflicts between the institutions.

...

It examines concurrently with the National Assembly, the government bills regarding:

- citizenship;

Page 28, PARAGRAPH II: SENATE, Article 105:

## Democracy

Page 2, Preamble:

[...]

CONVINCED that only the values of equality, justice, freedom, democratic tolerance and social solidarity can found an integrated, fraternal, prosperous Nation that is master of its destiny in History;

[...]

SOLEMNLY REAFFIRMING our attachment to principles of democracy and Human Rights such as they are defined by the universal Human Rights Declaration of 10 December 1948, the African Charter on Human and People's Rights adopted on 18 June 1981, as well as all international and regional legal instruments adopted within the framework of the United Nations Organisation and of the African Union duly ratified by the Democratic Republic of Congo;

Page 4, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 4:

The motto shall be "Democracy, Justice, Unity".

Page 6, CHAPTER II: SOVEREIGNTY Article 10:

National sovereignty shall belong to the Nation. All power shall arise from the people, who shall exercise it directly by means of a referendum or elections and indirectly by their representatives.

No part of the nation or any individual may take upon itself to exercise sovereignty.

[...]

Suffrage shall be universal, equal and secret. It shall be direct or indirect.

According to conditions determined by the law, the voters shall all be Congolese of both sexes, over the age of eighteen, who enjoy their civil and political rights.

Page 6, CHAPTER II: SOVEREIGNTY, Article 11:

The political parties shall contribute to the expression of suffrage, the formation of national conscience and citizenship training. They shall form and freely exercise their activities whilst respecting the law, public order and morality.

Political parties shall be obliged to respect the principles of multi-party democracy, national unity and sovereignty.

Page 6, CHAPTER II: SOVEREIGNTY, Article 13:

The political opposition shall be recognised in the Democratic Republic of Congo. The rights linked to its existence, its activities and its fight for democratic conquest of power shall be sacred.

An organic law shall thus set the status, the rights as well as the duties of the political opposition.

Page 12, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 35:

The right of asylum shall be recognised.

Subject to national security the Republic shall grant asylum on its territory to foreign nationals pursued or persecuted due in particular to their opinions, beliefs, their allegiance to a racial, tribal, ethnic, linguistic group or their action in favour of democracy and the defence of Human Rights, in accordance with laws and regulations in force.

Page 28, SECTION II, PARAGRAPH II, ARTICLE 104:

Without prejudice to the other provisions of this Constitution and to the laws of the Republic, the Senate is entrusted with a mediation mission regarding the political conflicts between the institutions. It is responsible to prepare the blueprint of the Constitution to be submitted to a referendum. It examines concurrently with the National Assembly, the government bills regarding institutions supporting democracy

**Detention  
procedures**

Page 8, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 19

... A person may only be sued, arrested or detained in virtue of the law and according to methods stipulated by law.

Page 8-9, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 20

Any person arrested must be immediately informed or at the latest within twenty- four hours of the reasons for his/her arrest and any accusation made against him/her, and this being in a language that he/she understands.

Such person must be immediately informed of his/her rights.

The person kept in custody shall have the right to immediately contact his/her family and is/her counsel.

The custody period may not exceed forty-eight hours. On expiry of this period, the person in custody must be released or placed in the hands of the competent judicial authority.

Any detainee must benefit from treatment that preserves his/her life, physical and mental health as well as his/her dignity. ...

Page 8-9, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 21

Any person deprived of his/her freedom by arrest or detainment shall have the right to recourse before a court, which shall as soon as possible give judgement on the legality of his/her detainment and order his/her freedom if the detainment is illegal.

A person who is a victim of arrest or of illegal detainment shall have the right to just and equitable compensation for the prejudice endured by him/her.

All persons shall have the right to defend themselves or to be assisted by a lawyer or legal counsel of his/her choice.

Any person prosecuted shall have the right to demand to be heard in the presence of a lawyer or a legal counsel of his/her choice, and this being on all levels of criminal procedure, including police investigations and pre-jurisdictional enquiries.

Page 8-9, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 22

No person may be removed against their will from the judge who has been assigned to hear his/her case. All persons shall have the right to have their case heard equitably and within the legal period by a competent and legally established jurisdiction. ...

**Media and communication**

Rights related issues→Media and communication→Governance of media  
Page 11, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 29:  
All persons shall have the right to information.

Page 43, CHAPTER II: INSTITUTIONS FOR THE PROMOTION OF DEMOCRACY, Article 154:  
Institutions for the promotion of democracy are:  
– The Media Council

Page 43, CHAPTER II: INSTITUTIONS FOR THE PROMOTION OF DEMOCRACY, Article 155:  
The role of these institutions for democracy is:  
– to ensure the neutrality of the media;

Rights related issues→Media and communication→Media roles  
Page 11, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 29:  
All persons shall have the right to information.

The freedom of information and broadcasting by radio, television, written press or any other means of communication shall be guaranteed.

State audiovisual and written media shall be public services whose access shall be guaranteed in a just manner to all political and social movements.

The status of State media shall be established by law, which shall guarantee the objectivity, impartiality and plurality of opinions in information processing and distribution.

Page 33, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118:

Without prejudice to the other related provisions of this Constitution, the law sets out the fundamental principles regarding:

[...]

- the organising of the medias;

**Mobility/access**

Page 13, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 38:

The exercising of art, commerce and industry, as well as the free movement of assets shall be guaranteed throughout the territory of the Republic, according to conditions stipulated by law.

**Protection  
measures**

Rights related issues→Protection measures→Protection of civilians

Page 2, Preamble:

[...]

DETERMINED to build a long-term lawful State based on political pluralism, the separation of powers between the executive, the legislature and judiciary, the participation of citizens in the exercising of power, the control of governments by those governed, transparency in the management of public matters, the subordination of the military Authority to the civil Authority, the protection of persons and their assets, full development both on a spiritual and moral level of each Congolese citizen, as well as the harmonious development of the national community;

Page 7, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 17

All Congolese shall be equal before the law and shall have the right to equal protection of laws.

Page 13, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 39:

...

The State shall guarantee the right to work, protection against unemployment and an equitable and satisfactory remuneration ensuring the worker as well as his family of a humanely dignified existence, together with other means of social protection.

Rights related issues→Protection measures→Protection of groups

Page 5, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 9:

The soil and sub soil shall belong to the State. The conditions of their concession shall be set by law, which must protect the interests of local populations.

Page 6, CHAPTER II: SOVEREIGNTY, Article 14

All ethnic groups and nationalities of persons and territories constituting that which has become the Congo (currently the Democratic Republic of the Congo) at independence shall enjoy equal rights and protection in terms of the law as citizens.

Page 15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 44

All children shall have the right to know the names of their father and mother.

All children shall have the right to enjoy the protection of their family, society and the public authorities.

The State shall be obliged to protect the child against prostitution, procuring, homosexuality, incest, paedophilia, sexual harassment and all other forms of sexual perversion.

Page 14-15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 43

All individuals shall have the right to marry a person of their choice, of the opposite sex and to create a family.

The family, basic unit of the human community shall be organised such that its unity and stability is ensured.

It shall be placed under the special protection of the public authorities.

Page 15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 44:

All children shall have the right to know the names of their father and mother.

All children shall have the right to enjoy the protection of their family, society and the public authorities.

The State shall be obliged to protect the child against prostitution, procuring, homosexuality, incest, paedophilia, sexual harassment and all other forms of sexual perversion.

Page 15, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article

**Other**

Page 18, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 61:

The respect of Human rights and basic freedom established in the present Constitution shall be incumbent upon all citizens and public authorities.

Page 18, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 62:

The exercising of Human rights and basic freedom established in the present Constitution may only be suspended in cases stipulated therein.

Page 18, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 63:

All persons shall be obliged to respect the present Constitution and to comply with laws of the Republic.

Page 41, SECTION IV: THE JUDICIARY, Article 147:

The judiciary guarantees the personal freedoms and basic rights of the individual.

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**Rights institutions****NHRI**

Rights institutions→NHRI→Mentions of NHRI

Page 43, CHAPTER II: INSTITUTIONS FOR THE PROMOTION OF DEMOCRACY, Article 154:

Institutions for the promotion of democracy are:

- The Independent Electoral Commission
- The National Human Rights Commission
- The Media Council – The Truth and Reconciliation Commission
- The Ethics and Corruption Commission

Page 43, CHAPTER II: INSTITUTIONS FOR THE PROMOTION OF DEMOCRACY, Article 155:

The role of these institutions for democracy is:

...

- to promote and protect human rights;
- to further the inculcation of moral and social values.

**Regional or international human rights institutions**

No specific mention.

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## Justice sector reform



**Criminal justice and emergency law** Justice sector reform→Criminal justice and emergency law→Reform to specific laws  
Page 6, CHAPTER II: SOVEREIGNTY, Article 11:

... No person may establish, in any form whatsoever, a single party on all or part of national territory.

The establishment of a single party shall constitute a crime of high treason punishable by law.

Page 8, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 19:

Individual freedom shall be inviolable and guaranteed by law.

... No person may be sued in court for an action or an omission that does not constitute a violation of the law at the time that it was committed and at the time of the prosecution. Any person accused of a violation shall be presumed innocent until his/her guilt has been proven by a final sentence. ...

Justice sector reform→Criminal justice and emergency law→Criminal Justice System reform

Page 32, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118:

Without prejudice to the other related provisions of this Constitution, the law sets out the rules regarding:

- ...- the determination of offences and penalties that are applicable to them, the criminal procedure, the organising and functioning of the Judiciary, the establishment of new jurisdiction orders, the magistrates' status, the legal system applicable to the High Council for the Judiciary;
- the organising of the Bar, legal assistance and legal representation;

**State of emergency provisions**

Page 21, CHAPTER I: THE INSTITUTIONS OF THE REPUBLIC, SECTION I: EXECUTIVE POWER, PARAGRAPH 1: THE PRESIDENT OF THE REPUBLIC, Article 74:

In accordance with Articles 135 and 136 of this Constitution, the President of the Republic can proclaim a state of siege and a state of emergency following a proposal from the Council of Ministers in keeping with the recommendation of the High Council for Defence as well as the National assembly and the Senate.

Page 28, CHAPTER I: THE INSTITUTIONS OF THE REPUBLIC, PARAGRAPH II: SENATE, Article 104:

Without prejudice to the other provisions of this Constitution and to the laws of the Republic, the Senate is entrusted with a mediation mission regarding the political conflicts between the institutions.

It is responsible to prepare the blueprint of the Constitution to be submitted to a referendum.

It examines concurrently with the National Assembly, the government bills regarding:

- citizenship;
- decentralisation;
- public finances;
- the electoral process;
- institutions supporting democracy;

The laws relevant to the matters mentioned in the preceding subparagraph are passed in similar terms by the National Assembly and the Senate.

In the case of a disagreement between the National Assembly and the Senate or in a case of emergency declared by the Government, a Joint Consultative Committee is established to propose through consensus a unique law to be concurrently adopted by both parliamentary houses.

If the disagreement persists, the National Assembly gives the final ruling.

Page 36, CHAPTER I: THE INSTITUTIONS OF THE REPUBLIC, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 129:

After its adoption, the law is submitted to the President of the Republic without any delay.

The President of the Republic promulgates the acts finally passed within the period of fifteen days that follows the expiry of the recourse periods envisaged in Article 131 of this Constitution.

The promulgation prescribed time is reduced by half in a case of an emergency as declared by the National Assembly.

Page 37-38, CHAPTER I: THE INSTITUTIONS OF THE REPUBLIC, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 135:

In accordance with the provisions of Article 74 of this Constitution, the state of siege, the state of emergency, is decreed by the President of the Republic on decision of the Council of Ministers after favourable recommendation from the High council for Defence as well as the National Assembly and the Senate.

Then, the National Assembly and the Senate meet by right. If they are not in session, they are convened in a special session to that effect in accordance with Article 115 of this Constitution.

The state of emergency or the state of siege may be proclaimed over the whole or part of the territory of the Republic for a period of thirty days.

The decree proclaiming the state of emergency or the state of siege ceases by right to produce its effects after the expiry of the period envisaged in subparagraph three of this Article unless after the matter is referred to the National Assembly by the President of the Republic on request from the Council of Ministers, the National Assembly authorised the prorogation for successive periods of fifteen days.

The National Assembly may, through an act, put an end, anytime, to the State of

## Judiciary and courts

Page 9-10, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 22:

No person may be removed against their will from the judge who has been assigned to hear his/her case. All persons shall have the right to have their case heard equitably and within the legal period by a competent and legally established jurisdiction.

Page 9-10, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 23:

The hearings of civil and military courts and tribunals shall be public unless this publicity is deemed to be dangerous for public order and morality. In this instance, the court shall demand that the case be heard in camera.

Page 9-10, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 24:

All judgements shall be pronounced in public hearings. They shall be in writing and substantiated.

The right to appeal against a judgement shall be guaranteed for all, in accordance with the law.

... A stronger sentence than that applicable at the time when the violation was committed, shall not be permitted.

If the new law punishes a violation with a lesser sentence than that which was prescribed by the law in force at the time when the violation was committed, the judge shall apply the lesser sentence.

... The law shall determine the grounds for substantiation, pardon and non-liability.

Page 21, SECTION I, PARAGRAPH I, ARTICLE 77:

On proposal from the High Council for the Judiciary, he [the President] appoints and dismisses the judges and the public prosecutors after having informed the Government.

Page 41-43, SECTION IV: THE JUDICIARY, Article 146:

Justice is dispensed throughout the land in the name of the People of the Democratic Republic of Congo.

Orders and judgements as well as civil and military courts are carried out in the name of the President of the Republic.

Page 41-43, SECTION IV: THE JUDICIARY, Article 147:

Judicial power is independent of legislative power and executive power.

The President of the Republic is the guarantor of the independence of the judiciary. In this respect he is assisted by the High Council of the Judiciary which is established and functions according to an organic law.

The judiciary guarantees the personal freedoms and basic rights of the individual.

In the performance of their duties, judges are subject only to the authority of the law.

An organic law determines the status of magistrates and their remuneration.

Page 41-43, SECTION IV: THE JUDICIARY, Article 148:

Judicial power is exerted by the Supreme Court, the Appeal Courts and the lower Courts and Tribunals, both civil and military, as well as the Public prosecutor's office. Civil and military Courts and Tribunals, as well as the Public prosecutor's offices within their jurisdictions, may only be established in accordance with the law.

The nature, competence, structure, operation and seats of these Courts and Tribunals and the Public Prosecutor's offices, as well as the procedure to be followed, are dictated by law.

Page 41-43, SECTION IV: THE JUDICIARY, Article 149:

Civil and military Courts and Tribunals apply the law and statutory acts and also

**Prisons and detention** Page 33, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118:  
Without prejudice to the other related provisions of this Constitution, the law sets out the fundamental principles regarding:  
[...]  
- the prison system;

**Traditional Laws** Page 41-42, SECTION IV: THE JUDICIARY, Article 149:  
Civil and military Courts and Tribunals apply the law and statutory acts and also customary law, in so far as the latter conforms to public law and order and accepted moral standard.

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**Socio-economic reconstruction**

**Development or socio-economic reconstruction** Socio-economic reconstruction→Development or socio-economic reconstruction→Socio-economic development  
Page 5, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 7:  
The State shall see to the harmonious development of all decentralised entities on the basis of national solidarity by the effective implementation of mechanisms instituting administrative and financial autonomy as provided in the law.

Page 17, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 55:  
All Congolese shall have the right to enjoy national wealth.  
The State shall have the duty to distribute them equitably and to guarantee the right to development.

**National economic plan** No specific mention.

**Natural resources** Page 33, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118:  
Without prejudice to the other related provisions of this Constitution, the law sets out the fundamental principles regarding:  
- the free administration of local administrations, their abilities and their resources;  
  
Page 5, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 9:  
The soil and sub soil shall belong to the State. The conditions of their concession shall be set by law, which must protect the interests of local populations.

**International funds** No specific mention.

**Business** No specific mention.

## **Taxation**

Socio-economic reconstruction→Taxation→Reform of taxation

Page 18, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 59:

All Congolese shall be obliged to faithfully fulfil their obligations with regard to the nation.

They shall be obliged to pay taxes and to fulfil social obligations.

Page 32, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118:

Without prejudice to the other related provisions of this Constitution, the law sets out the rules regarding:

[...]

- the bases, rates and ways and means of collection of all forms of taxation, the money issuing system;

Page 46, CHAPTER III: THE TREASURY SECTION I: GENERAL PROVISIONS, Article 164:

Tax may only be instituted in terms of the law.

The payment of contributions to the Treasury is the duty of each and every citizen and resident of the Democratic Republic of Congo.

Exemptions or tax relief may be granted only as provided by law.

## **Banks**

Socio-economic reconstruction→Banks→Central bank

Page 21, SECTION I, PARAGRAPH I, ARTICLE 76:

In accordance with the provisions of the Comprehensive and Inclusive Agreement and its annexures, the

President of the Republic appoints:

...

The Governor and the Vice-Governor of the Central Bank,

Page 47, SECTION III: THE CENTRAL BANK OF THE CONGO, Article 168:

The Central Bank of the Congo is the monetary issuing authority of the Democratic Republic of Congo.

The Central Bank of the Congo enjoys management autonomy. It is overseen by the Ministry responsible for finance.

Page 47, SECTION III: THE CENTRAL BANK OF THE CONGO, Article 169:

The Central Bank of the Congo is entrusted with:

- the care of public funds;
- monetary safety and stability;
- setting and implementing monetary policy;
- controlling all banking activity.

Page 47, SECTION III: THE CENTRAL BANK OF THE CONGO, Article 170:

The Central Bank of the Congo is the government's economic and financial adviser.

Page 47, SECTION III: THE CENTRAL BANK OF THE CONGO, Article 171:

The Governor of the Central Bank of the Congo is heard by the National Assembly as and when necessary.

Page 47, SECTION III: THE CENTRAL BANK OF THE CONGO, Article 172:

The structure and operation of the Central Bank of the Congo is determined by an organic law.

## Land, property and environment

**Land reform/rights** Land, property and environment→Land reform/rights→Land reform and management  
Page 5, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 9  
The soil and sub soil shall belong to the State. The conditions of their concession shall be set by law, which must protect the interests of local populations.

Page 33, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118

Without prejudice to the other related provisions of this Constitution, the law sets out the fundamental principles regarding:

- the free administration of local administrations, their abilities and their resources;
- the land and mining system;

Land, property and environment→Land reform/rights→Other land rights

Page 13, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 36

Private property shall be sacred.

The State shall guarantee the right to personal or collective ownership in accordance with the law or customs.

The State shall encourage and ensure the safety of private national and foreign investments.

Page 13, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 37

Expropriation for reasons of general interest or public utility may only take place in virtue of a law stipulating the prior payment of equitable compensation.

A person's assets may only be seized in virtue of a decision taken by a competent legal authority.

## **Pastoralist/ nomadism rights**

No specific mention.

## **Cultural heritage**

Land, property and environment→Cultural heritage→Intangible

Page 4, TITLE II: THE STATE AND SOVEREIGNTY, CHAPTER I: THE STATE, Article 4:

The national languages shall be: Kikongo, Lingala, Swahili and Tshiluba.

The official language shall be French.

Land, property and environment→Cultural heritage→Promotion

Page 16, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 49:

...

The State shall protect the national cultural heritage.

[...]

In the carrying out of its duties the State shall take into account the cultural diversity of the country.

Land, property and environment→Cultural heritage→Other

Page 2, Preamble:

HAVING KNOWLEDGE of the cultural and spiritual values deeply rooted in the traditions of solidarity and justice of the Congolese Nation, and aware of the cultural diversity, which is a spiritually enriching factor of the personality of our people:

**Environment** Page 17, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 54:  
All Congolese shall have the right to a healthy environment that is favourable to their development.  
The public authorities and citizens shall have the duty to ensure the protection of the environment according to conditions defined by the law.

**Water or riparian rights or access** No specific mention.

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**Security sector**

**Security Guarantees** No specific mention.

**Ceasefire** No specific mention.



## Police

Page 14, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 41:

...

Nevertheless, members of the armed forces, law and order forces and security services may not form trade unions nor become members thereof.

Page 16, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 47:

[...]

The State shall be obliged to integrate the rights of the individual in all training programmes of the armed forces, the police and security services.

Page 25, SECTION I, PARAGRAPH IV, ARTICLE 94:

The Government has the public administration, the armed forces, the national police as well as the civil security and civil protection services at its disposal.

Page 33, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118:

Without prejudice to the other related provisions of this Constitution, the law sets out the rules regarding:

[...]

- the army, the police and the safety and security services;

[...]

- the overall organising of the defence force and the national police, the ways and means to recruit the members of the armed forces and the national police, the promotion, the rights and duties of the military personnel and the police personnel.

Page 46-47, CHAPTER IV: THE CONGOLESE NATIONAL POLICE FORCE AND THE CONGOLESE ARMED FORCES SECTION I: THE CONGOLESE NATIONAL POLICE FORCE, Article 173:

The Congolese National Police Force is responsible for public safety and for restoring and maintaining law and order.

The Congolese National Police Force is at the service of the Congolese people. No one may divert it from its proper duties.

The Congolese National Police Force exercises its duties throughout the country, with due regard to this Constitution and the laws of the Republic.

Page 46-47, CHAPTER IV: THE CONGOLESE NATIONAL POLICE FORCE AND THE CONGOLESE ARMED FORCES SECTION I: THE CONGOLESE NATIONAL POLICE FORCE, Article 174:

The Congolese National Police Force is apolitical. It is subject to civil authority and falls under the jurisdiction of the Ministry responsible for public safety.

Page 46-47, CHAPTER IV: THE CONGOLESE NATIONAL POLICE FORCE AND THE CONGOLESE ARMED FORCES SECTION I: THE CONGOLESE NATIONAL POLICE FORCE, Article 175:

Recruitment into the Congolese National Police Force takes account of objective criteria associated with physical ability, adequate level of education and good moral character, as well as the need to balance the intake of recruits between all the provinces.

Page 46-47, CHAPTER IV: THE CONGOLESE NATIONAL POLICE FORCE AND THE CONGOLESE ARMED FORCES SECTION I: THE CONGOLESE NATIONAL POLICE FORCE, Article 176:

No one may be recruited into the Congolese National Police Force, or take part in wars or hostilities, if they are under eighteen years of age at the time of recruitment.

## Armed forces

Page 3, Preamble:

REITERATING our commitment to take advantage of the transition period to establish, in peace and harmony, a new political order in the DRC, in particular democratic institutions with a view to good governance of the country, as well as the creation of a restructured and integrated national army,

Page 14, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 41:

[...]

Nevertheless, members of the armed forces, law and order forces and security services may not form trade unions nor become members thereof.

Page 16, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 47:

[...]

The State shall be obliged to integrate the rights of the individual in all training programmes of the armed forces, the police and security services.

Page 20, SECTION I, PARAGRAPH I, ARTICLE 72:

The President of the Republic is the Supreme Commander of the Armed Forces.

Page 25, SECTION I, PARAGRAPH IV, ARTICLE 94:

The Government has the public administration, the armed forces, the national police as well as the civil security and civil protection services at its disposal.

Page 32, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118:

Without prejudice to the other related provisions of this Constitution, the law sets out the rules regarding:

[...]

- the army, the police and the safety and security services;

[...]

- the overall organising of the defence force and the national police, the ways and means to recruit the members of the armed forces and the national police, the promotion, the rights and duties of the military personnel and the police personnel.

Page 43, SECTION II, PARAGRAPH IV, ARTICLE 152:

The first President of the Supreme Court of Justice, the Attorney General of the Republic and the Auditor General of the armed forces shall be appointed and instituted after the signature of the Comprehensive and Inclusive Agreement, in keeping with the national balance of power and according to a mechanism defined by the Components and Entities of the Inter-Congolese Dialogue.

Page 47-48, SECTION II: THE ARMED FORCES, Article 178:

The role of the Armed Forces of the Democratic Republic of Congo is to defend the territorial integrity of the country against any external aggression and, under conditions set by law, to participate in its economic, social and cultural development and to protect individuals and their assets.

Page 47-48, SECTION II: THE ARMED FORCES, Article 179:

The Armed Forces of the Democratic Republic of Congo are made up of land forces, air forces and naval forces.

Page 47-48, SECTION II: THE ARMED FORCES, Article 180:

The Armed Forces of the Democratic Republic of Congo are nationals of the republic and

**DDR** No specific mention.

**Intelligence services** No specific mention.

**Parastatal/rebel and opposition group forces** No specific mention.

**Withdrawal of foreign forces** No specific mention.

## Corruption

Page 4, TITLE I: GENERAL PROVISIONS, Article 3

...

No person may divert the attributes of power and public power for personal needs in the carrying out of partisan interests or to facilitate interference of an institution or public service in the operating of another institution or another public service.

SECTION I: EXECUTIVE POWER PARAGRAPH 1: THE PRESIDENT OF THE REPUBLIC, ARTICLE 66

Without prejudice to the other provisions of this Constitution, the duties of the President of the Republic end through resignation, death, unavoidable difficulty, high treason, embezzlement or misappropriation of public funds and corruption.

Page 22, PARAGRAPH III: VICE-PRESIDENTS OF THE REPUBLIC

Article 84

Without prejudice to the provisions of Article 206 of this Constitution, the duties of a Vice-President come to an end following resignation, death, final unforeseen circumstances or condemnation for high treason, embezzlement of public funds, misappropriation of public funds or corruption.

Page 24, PARAGRAPH IV: GOVERNMENT, Article 90

During the discharge of their duties, the Members of the Government may not, either by themselves or through an intermediary, buy or rent anything whatsoever that is owned by the State.

They are bound, when taking up their duties and when they are ending, to declare in writing, on one's honour, all their assets to Parliament.

Page 26, PARAGRAPH I: THE NATIONAL ASSEMBLY, Article 101

The Chairman of the National Assembly is appointed for the full duration of the transition. Without prejudice to the provisions of sub-paragraph 1 of this Article, the functions of the Chairman of the National Assembly shall come to an end by resignation, death, permanent inability to fulfil his duties, conviction of high treason, embezzlement or misappropriation of public funds or corruption.

Page 29, PARAGRAPH II: SENATE, Article 107

The President of the Senate is designated for the whole duration of the Transition. Notwithstanding the provisions of subparagraph 1 of this article, the duties of the President of the Senate come to an end due to resignation, death, final unforeseen difficulties, condemnation for high treason, embezzlement of public funds, misappropriation of public funds or corruption.

Page 39, PARAGRAPH II, SECTION IV, ARTICLE 141:

The President of the Republic is criminally liable for acts committed in the performance of his duties only in the case of high treason, misappropriation of public funds, corruption or deliberate violation of the Constitution.

Page 38, SECTION IV: INCOMPATIBILITIES AND IMMUNITIES, Article 143:

There is high treason when the President of the Republic or the Deputy President undermines national independence or territorial integrity, takes to himself or attempts to take to himself other constitutional powers, or attempts to prevent the exercise of the authority devolving thereto in terms of the present Constitution.

An organic law defines the penalties applicable to high treason and deliberate violation of the Constitution, and sets out the procedure to be followed by the Supreme Court of Justice.

<b>Crime/organised crime</b>	No specific mention.
<b>Drugs</b>	No specific mention.
<b>Terrorism</b>	Page 17, TITLE III: PUBLIC FREEDOM, BASIC RIGHTS AND DUTIES OF THE CITIZEN, Article 53: All Congolese shall have the right to peace and safety. No portion of national territory may be used as a point of departure for subversive or terrorist activities directed against any other State.

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## **Transitional justice**

**Transitional justice general** No specific mention.

**Amnesty/pardon** Transitional justice→Amnesty/pardon→Amnesty/pardon proper  
Page 32, SECTION III: RELATIONS BETWEEN THE EXECUTIVE POWER AND THE LEGISLATIVE POWER, Article 118:  
Without prejudice to the other related provisions of this Constitution, the law sets out the rules regarding:  
...  
- amnesty and extradition;

Page 51-52, CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS, Article 199:  
At its first session the transitional National Assembly, in accordance with universal principles and international law, will adopt an Act granting amnesty for acts of war, political offences and views, with the exception of war crimes, crimes of genocide and crimes against humanity.  
Pending adoption and promulgation of the above mentioned Act, the President of the Republic shall enact an ordinance, granting amnesty to all those falling within the ambit of paragraph 1 of this article.  
Transitional justice→Amnesty/pardon→Power to amnesty  
Page 21, SECTION I, PARAGRAPH I, ARTICLE 78:  
The President of the Republic has the right to pardon. He may give somebody remission, commute and reduce sentences after having informed the Government. He exercises such prerogatives according to the conditions defined by the law.

**Courts** No specific mention.

**Mechanism** Page 43, SECTION IV, CHAPTER II, ARTICLE 154:  
Institutions for the promotion of democracy are:  
[...]  
- The Truth and Reconciliation Commission.

**Prisoner release** No specific mention.

<b>Vetting</b>	No specific mention.
<b>Victims</b>	No specific mention.
<b>Missing persons</b>	No specific mention.
<b>Reparations</b>	No specific mention.
<b>Reconciliation</b>	<p>Page 3, Preamble:  ENDEAVOURING to guarantee a peaceful transition in the Democratic Republic of Congo operating according to the principles of consensus, inclusiveness and non-conflict and based on as just a distribution as possible of different Government responsibilities between the Components and Entities to the inter- Congolese Dialogue, an appropriate representation of the Provinces and the different political sensitivities and, in particular, effective participation of women on all levels of responsibility, taking into account the criteria of competence, credibility and integrity, in a spirit of national reconciliation;</p> <p>Page 18, CHAPTER II, Title III, ARTICLE 60:  All Congolese shall be obliged to respect and treat their fellow citizens without any discrimination and to maintain relations with them that facilitate the safeguarding, promotion and reinforcement of national unity, mutual respect and tolerance.</p> <p>Page 43, CHAPTER II: INSTITUTIONS FOR THE PROMOTION OF DEMOCRACY, Article 154:  Institutions for the promotion of democracy are:  ...  – The Truth and Reconciliation Commission</p> <p>Page 43, CHAPTER II: INSTITUTIONS FOR THE PROMOTION OF DEMOCRACY, Article 155:  The role of these institutions for democracy is:  – to build national unity through true reconciliation between the Congolese people;</p>

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## **Implementation**

<b>UN signatory</b>	<p>WITNESSES</p> <p>His Excellency Mr Moustapha Niasse, Special Envoy of the Secretary General of the United Nations for Inter-Congolese Dialogue</p>
<b>Other international signatory</b>	<p>WITNESSES</p> <p>His Excellency Mr Thabo Mbeki, President of the Republic of South Africa and Chairman in office of the African Union, represented by His Excellency His Excellency Mr Sydney Mufamadi, Minister of Provincial and Local Government,</p> <p>His Excellency Mr Moustapha Niasse, Special Envoy of the Secretary General of the United Nations for Inter-Congolese Dialogue, representing His Excellency Mr Kofi Annan, Secretary General of the OAU</p>

**Referendum for agreement**

Page 26, PARAGRAPH I: THE NATIONAL ASSEMBLY, Article 98:  
...  
- adopts the Constitution project to be subjected to a referendum.

Page 28, PARAGRAPH II: SENATE Article 104:  
Without prejudice to the other provisions of this Constitution and to the laws of the Republic, the Senate is entrusted with a mediation mission regarding the political conflicts between the institutions.  
It is responsible to prepare the blueprint of the Constitution to be submitted to a referendum.

**International mission/force/similar**

No specific mention.

**Enforcement mechanism**

Page 52-53, CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS,

Article 204

The Transitional Constitution is adopted by the Plenary Session of the Inter-Congolese Dialogue.

It shall come into effect on the date it is promulgated by the President of the Republic, three full days after it has been adopted.

Article 205

The Transitional Constitution ceases to have effect when a Constitution is adopted at the end of the transitional period.

**Related cases**

No specific mention.

**Source**

ISS- Institute for Security Studies

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