

**Law No. 1/017 of 28 October 2001 promulgating  
the Transitional Constitution of the Republic of Burundi**

The president of the Republic,

*Given* the Arusha Agreement for Peace and Reconciliation in Burundi, signed at Arusha, in the United Republic of Tanzania, dated 28 August 2000;

*Given* Law No 1/107 of 1 December 2000 adopting the Arusha Agreement for Peace and Reconciliation in Burundi;

The Transitional National Assembly having adopted it;

PROMULGATES:

**Unique Article:**

The Transitional Constitution of the Republic of Burundi has been adopted by the Transitional National Assembly in its session of 27 October 2001, the text of which is annexed to the present law, is promulgated.

Done in Bujumbura,

28 October 2001.

Pierre Buyoya

Seen and sealed with the Seal of the Republic.

## TITLE I: GENERAL PROVISIONS

### Article 1

The present Transitional Constitution of the Republic of Burundi governs the operation of the institutions of the Republic of Burundi from the establishment of the Government of Transition until the post-transitional Constitution comes into force.

### Article 2

The duration of the transitional period is 36 months.

### Article 3

The transitional institutions are entrusted with applying the Arusha Agreement for Peace and Reconciliation in Burundi, with a view to ending the Burundian conflict by establishing a legal, just and democratic state, capable of reassuring and promoting all the elements of the nation and thus releasing their creative energy in order to make them dynamic agents committed to consolidating the nation and promoting the economic, social and cultural development of the country.

### Article 4

The period of transitional regime is dedicated to achieving the following aims:

- 1° Manage security and seek primarily for a ceasefire;
- 2° Ensure the adoption, by referendum, of a post-transitional Constitution complying with the constitutional principles stated in the Arusha Agreement for Peace and Reconciliation in Burundi;
- 3° Reconcile and Unify Burundians and lay the foundation for a democratic and unified Burundi, thanks to, among other things, the promotion of a wide programme of education to peace, democracy, ethnic, regional and religious tolerance;
- 4° Ensure the repatriation of Burundians living outside the national territory as well as the resettlement, reintegration and rehabilitation of the victims [sinistrés];
- 5° Implement measures and arrangements related to the restoration of peace, the cessation of hostilities and the establishment of a professional and loyal army in Burundi;
- 6° Ensure the adoption of agreed measures to deal with the consequences of crimes committed in the past and to avoid any repetition of genocide, exclusion and impunity;
- 7° Implement measures and undertake reforms related to the judiciary, administration and the Defence and Security Forces in accordance with the Arusha Agreement for Peace and Reconciliation in Burundi;
- 8° Adopt an electoral law, establish an independent electoral commission and ensure the holding of the first elections at local and national level;
- 9° Adopt laws on political parties, local authorities, the press and any other areas required by the Arusha Agreement for Peace and Reconciliation in Burundi and to respond to the needs of the transitional institutions;

## TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE

### Article 5

Burundi is a unified, independent and sovereign, secular and democratic Republic. The status and re-establishment of the monarchy can only be decided by means of a referendum.

### Article 6

The principle of the Republic of Burundi is "Government of the people, by the people and for the people". Its political system must be in accordance with the basic values of Burundian society, which are national unity, social peace, democracy, social justice, development, national independence and sovereignty.

### Article 7

National sovereignty belongs to the people who exercise it, either through their representatives or directly by means of a referendum. Neither section of the people nor any individual can accord themselves the right to exercise it.

### Article 8

Suffrage is universal, equal and secret. It can be direct or indirect under conditions provided for by the electoral act. Voters, under conditions determined by the electoral act, are all Burundians who have turned eighteen and enjoy civil and political rights.

### Article 9

Burundi is subdivided into provinces, communes, and any other subdivisions specified by the law. An organic law defines their organisation and functioning. It can modify the limits and the number of them.

The national territory of Burundi is inalienable and indivisible subjected to the provisions of Title XIV of the present transitional Constitution.

### Article 10

The capital of Burundi is established at Bujumbura. It might be transferred to any other place in the Republic by law.

### Article 11

The flag of Burundi is tricolour: green, white and red. It has the form of a rectangle divided by a saltire [sautoir], having in its centre a white disc stamped with three six-pointed red stars that form a fictive equilateral triangle inscribed within a fictive circle having the same centre as the disc and whose base is parallel to the length of the flag.

The law specifies the dimensions and the other details of the flag.

### Article 12

The motto of Burundi is "Unity, Work, Progress" [Unité, Travail, Progrés]. The emblem of the Republic of Burundi is a shield stamped with the head of the lion as well as with three lances, all of it surrounded by the national motto. The national anthem is "Burundi Bwacu." The seal of the Republic is determined by the law.

### Article 13

The national language is Kirundi. The official languages are Kirundi and all other languages determined by the law. All the legislative texts must have their original version in Kirundi.

**Article 14**

The quality of [being] Burundian is acquired, is conserved and is lost accordingly to the conditions determined by the law.

**TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN**

**Article 15**

The rights and duties proclaimed and guaranteed by the Charter of National Unity, the Universal Declaration of Human Rights, international treaties relating to human rights, the African Charter on Human and Peoples' Rights, the Convention on the Elimination of all Forms of Discrimination Against Women, the International Convention on the Elimination of all Forms of Racial Discrimination and the Convention on the Rights of the Child form an integral part of the present Transitional Constitution. These basic rights are not the subject of any restriction or dispensation, except in certain justifiable circumstances, acceptable under international law and for which provision has been made in the present Transitional Constitution.

**Article 16**

All citizens have rights and obligations.

**1. Rights of the Individual**

**Article 17**

The individual is sacred and inviolable. The state has the absolute obligation to respect and protect the individual.

**Article 18**

Human dignity must be respected and protected.

**Article 19**

No one may be treated in an arbitrary manner by the state and its organs.

**Article 20**

Everyone has the right to develop and fulfil his or her potential with due respect for the present Transitional Constitution, public order, morality and the rights of others.

**Article 21**

Every woman and man has the right to life, to security of the person and to physical integrity.

**Article 22**

The freedom of the human being is inviolable. No restrictions may be placed on this freedom except by virtue of the law. Any person deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the person.

**Article 23**

All women and all men are equal in dignity, rights and duties. No one may be discriminated against, notably because of origin, race, ethnicity, sex, colour, language, social situation, religious, philosophical or political convictions, a physical or mental handicap, or for being a carrier of HIV/AIDS. All citizens are equal before the law, which ensures them equal protection.

**Article 24**

No one may be indicted, arrested or detained except in cases determined by the law, promulgated before the acts of which one has been accused. The right to defence is guaranteed before all the courts. None may be separated without their consent from the judge assigned to them by law.

**Article 25**

Every person accused of an unlawful act is presumed innocent until guilt has been legally established in the course of a public process, during which all the guarantees necessary to one's defence have been assured.

**Article 26**

No one may be convicted for actions or omissions which, at the time when they were committed, did not constitute an infraction. In the same way, no greater punishment than that applicable at the time when the infraction was committed, may be imposed.

**Article 27**

No one may be subjected to security measures except in such cases and forms specified by the law, especially for reasons of public order or the security of the state.

**Article 28**

No one may be subjected to torture, brutality or cruel, inhuman or degrading treatment.

**Article 29**

No one may be subjected to arbitrary interference with their private life, family, domicile or correspondence, nor to attacks on their honour and reputation. Residential searches or visits may not be ordered except within the forms and conditions provided by law. Secrecy of correspondence and communication is guaranteed with respect to the forms and conditions determined by law.

**Article 30**

All Burundians have the right to move and establish themselves freely on their national territory as well as to leave it and re-enter it. The exercise of this right may be limited by law only for reasons of public order or the security of the state, in order to guard against collective dangers or to protect persons in danger.

**Article 31**

No citizen may be forced into exile.

**Article 32**

The right of asylum is recognised under conditions defined by the law. Extradition is authorised only within the limits specified by law. No Burundian may be extradited abroad except if he has been prosecuted by an international criminal jurisdiction for genocide, war crimes or other crimes against humanity.

**Article 33**

Every person has the right to freedom of thought, conscience, religion and worship, while respecting the public order and the law. The exercise of worship and the expression of beliefs are carried out with respect to the principle of the secular nature of the state.

**Article 34**

Every person has the right to freedom of opinion and expression while respecting public order and the law. Freedom of the press is recognised and guaranteed by the state.

**Article 35**

Freedom of assembly and peaceful association is guaranteed within the conditions established by the law.

**Article 36**

Every person has the right to property. No one may be deprived of their property except for reasons of public utility, in cases and in the manner established by law and in return for a just and previous compensation or in execution of a judicial decision, given with the force of a judged matter.

**Article 37**

Every Burundian has the right to participate, either directly or indirectly through his or her representatives, in the supervision and management of the affairs of state, subject to legal conditions, notably of age and capacity. Every Burundian also has the right to accede to public office in the country.

**Article 38**

The family is the natural basic unit of society. Marriage is its legitimate support. The family and marriage are placed under the special protection of the state. The freedom to marry is guaranteed, as well as the right to choose one's partner. Marriage may only be concluded with the free and full consent of the future spouses. Parents have the natural right and duty to educate and raise their children. They are supported in this task by the State and regional and local authorities. Every child has the right to special measures of protection, due to his or her status as a minor, from his or her family, society and the state.

**Article 39**

Every child has the right to individual measures to ensure or improve the care that is necessary to his or her well-being, health and physical safety, and to be protected against abuse, acts of violence or exploitation.

**Article 40**

No child may be used directly or indirectly in an armed conflict. The protection of children is ensured in periods of armed conflict.

**Article 41**

No child may be detained except as a last resort, in which case the duration of the detention will be the shortest possible. Every child who is detained must be separated from other detainees over the age of 16 and must benefit from a treatment and conditions of detention appropriate to his or her age.

**Article 42**

Every person is entitled to obtain the satisfaction of economic, social and cultural rights indispensable to the dignity and to the free development of the person, thanks to the national effort and according to the resources of the country.

**Article 43**

The state is obliged to promote the development of the country, in particular rural development.

**Article 44**

Every citizen has the right of equal access to training, to education and to culture. The state has the duty to organise public education. However, the right to found private schools is guaranteed under conditions established by the law.

**Article 45**

The state recognises the right for all citizens to work and shall strive to create conditions which enable the enjoyment of this right. It recognises the right for every person to enjoy just and appropriate labour conditions and guarantees to the worker just compensation for services or production.

**Article 46**

Every person with equal competence has the right to equal pay for equal work without any discrimination.

**Article 47**

The right to establish and to join trade unions, as well as the right to strike, are recognised. The law can regulate the exercise of these rights and prohibit certain categories of persons from going on strike.

**Article 48**

Each person has the right to protection of the moral and material interests resulting from any scientific, literary or artistic production of which that person is the author.

**Article 49**

Every foreigner in the territory of the Republic enjoys the protection granted to persons and property by virtue of the present Transitional Constitution and of the law. A foreigner prosecuted for the crime of genocide, a crime against humanity or a war crime, may be extradited to an international criminal court.

**Article 50**

Any restriction of a basic right must be founded on a legal basis; it must be justified by general interest or by the necessity to protect a basic right of other people; it must be proportionate to the object in view.

**Article 51**

The judicial power, guardian of rights and freedoms, guarantees the respect for these rights within the conditions specified by the law.

**Article 52**

No one may abuse the rights recognised by the Transitional Constitution or by law in order to compromise the national unity, the independence of Burundi, or the secularity of the state or to violate in any other way the present Transitional Constitution.

## **2: Duties of the Individual and of the Citizen**

### **Article 53**

Every citizen has duties toward family and society, toward the state and other public authorities.

### **Article 54**

Every Burundian has the duty to preserve and reinforce national unity in accordance with the Charter of National Unity.

### **Article 55**

Everyone has the duty to respect the laws and the institutions of the Republic.

### **Article 56**

Every Burundian has the duty to preserve the harmonious development of the family and work towards the cohesion and respect of that family, to respect at all times his parents, and to support and assist them in case of need.

### **Article 57**

Every individual has the duty to respect and value his fellow without discrimination, and to maintain relations which enable the promoting, safeguarding and reinforcing of respect and tolerance.

### **Article 58**

Every Burundian must look, in relations with society, to the defence and reinforcement of Burundian cultural values and contribute to the establishment of a morally healthy society.

### **Article 59**

Public property is sacred and inviolable. Every person has the duty to respect it scrupulously and protect it. Every Burundian has the duty to defend the inheritance of the nation. Every act of sabotage, vandalism, corruption, embezzlement or waste, or any other act that may cause damage to public property, is punishable within the conditions specified by the law.

### **Article 60**

All citizens are expected to fulfil their civic obligations and defend the country. Every person has the duty to work for the common good and to fulfil his professional obligations. Everyone bears public responsibilities equally. No one may be discharged from such except as may be established by law. The state may proclaim that all citizens bear jointly the responsibilities that result from national and natural disasters.

### **Article 61**

Every Burundian entrusted with a public function or elected to a political function has the duty to fulfil it with conscience, integrity, devotion and loyalty to the general interest.

### **Article 62**

Every Burundian has the duty to defend the national independence and the integrity of the territory. Every citizen has the sacred duty of watching and participating in the defence of the country. Every Burundian and every foreigner who lives in the territory of the Republic, has the duty not to compromise the security of the state.

**Article 63**

Every individual has the duty to contribute to the safeguard of peace, of democracy and of social justice.

**Article 64**

Every Burundian has the duty to work towards the construction and prosperity of the country.

**TITLE IV: POLITICAL PARTIES**

**Article 65**

Multipartyism is recognised in the Republic of Burundi.

**Article 66**

The political party is a non-profit organisation, with a civil personality, gathering citizens around a societal democratic project founded on national unity, with a separate political programme, with precise objectives, seeking public good and ensuring the development of all citizens.

Political parties may form coalitions during elections, in accordance with the provisions of the electoral law.

Political parties and coalitions of political parties must promote the free expression of suffrage and participate in political life by peaceful means.

**Article 67**

The political parties may freely constitute themselves and are registered in accordance with the present Transitional Constitution and the law.

To be registered, they are required in particular to subscribe to the Charter of National Unity and to adhere to the following fundamental principles: respect, defence and consolidation of national unity; the protection and promotion of the fundamental human rights; the promotion of a State based on respect and Defence of democracy; the Defence of territorial integrity and national sovereignty; the proscription of intolerance, genocide ideology, ethnic prejudice, regional prejudice, xenophobia and the use of violence in all its forms.

Political parties are required to comply with the Charter of National Unity and the principles set out above in the course of their operation.

No political party can be recognised if it is created and organised on the basis of ethnic or regional exclusion.

**Article 68**

A political party which militates peacefully in favour of the restoration of the monarchy may be approved.

**Article 69**

Political parties commit themselves in writing to fight against any political ideology and any act aimed at encouraging violence, hatred or negative discrimination.

**Article 70**

Political parties, in their organisation and functioning, must follow democratic principles. They must be open to all Burundians and their national character must also be reflected at leadership level. They

must not advocate violence or hatred based, among other things, on membership of an ethnic group, regional origin or religion.

**Article 71**

It is forbidden for political parties to identify themselves in form, in action or in any other manner, specifically to an ethnic group, to a region, to a religion, to a faction or to a gender.

**Article 72**

Members of the armed forces, of the police corps as well as the magistrates, while active, are not authorised to belong to political parties.

**Article 73**

The law guarantees the non-interference of the public powers in the internal functioning of the political parties, except for that of the restrictions necessary to prevent ethnic, political, regional, religious or gender hatred and to maintain the public order.

**Article 74**

The external financing of the political parties is prohibited, except in case of exceptional derogation established by the law.

All financing of a nature that infringes the national independence and sovereignty is prohibited.

The law determines and organises the sources of financing of the political parties.

**Article 75**

The conditions within which the political parties are formed, exercise and cease their activities are determined by the law.

**Article 76**

Any accredited political party or political movement shall take part in the transitional arrangements, including those relating to the integration of the defence and security forces, considering the political configuration of each party, if it is participating and respects the commitments set out in the Agreement, in particular those relating to a peaceful transition.

Any party or political party that signs or agrees to sign an undertaking by which it confirms its intention to take part in the transitional arrangements and to work for peace, national reconciliation and democracy, is a participating party.

**TITLE V: EXECUTIVE POWER**

**Article 77**

The executive power is exercised by a President of the Republic, a Vice-President of the Republic and a Transitional Government of National Unity.

Men and Women who are called upon to lead the transition, must, at any time, show integrity, determination, patriotism and competence, and be deeply committed to the interest of all Burundians, without any discrimination.

They must solemnly take an oath prior entering their functions.

## **Article 78**

When entering their functions and at the end of these-ones, the President of the Republic, the Vice-President of the Republic and the members of the Government are required to make on their honour a written declaration of their assets and patrimony addressed to the competent jurisdiction.

### **1. The President of the Republic**

## **Article 79**

During the transitional period, the Presidency of the Republic is hold in two equal periods of 18 months each.

## **Article 80**

The President of the Republic the Vice-Republic of the Republic are appointed within the framework of Arusha negotiations.

The President of the Republic the Vice-Republic of the Republic are confirmed by acclamation of the Transitional National Assembly.

The mandate of the President of the Republic is of 18 months. It begins on the day of swearing -in and terminates when the President of the Republic of the second phase of the transition enters his functions.

The Vice-President of the President of the first phase of transition becomes the President of the Republic during the second phase of the transition.

## **Article 81**

When entering in function, the President of the Republic solemnly takes the following oath, received by the Constitutional Court before the Transitional National Assembly: "Before the Burundian People, sole holder of the national sovereignty, I, (enounce the name), President of the Republic of Burundi, swear fidelity to the Charter of the National Unity, to the Constitution of the Republic of Burundi and to the law and engage myself to dedicate all my forces to the defence of the superior interests of the nation, to assure the national unity and the cohesion of the Burundian People, [and] social peace and justice. I engage myself to fight any ideology and practice of genocide and of exclusion, to promote and to defend the individual and collective rights and freedoms of the person and of the citizen, and to safeguard the integrity and the independence of the Republic of Burundi."

## **Article 82**

The President of the Republic, Head of the State, incarnates the national unity, sees to the respect for the Charter of National Unity and the Transitional Constitution and assures by his arbitration the continuity of the State and the regular functioning of the powers.

He is the guarantor of the national independence, of the integrity of the territory and of the respect for the international treaties and agreements.

## **Article 83**

The President of the Republic exercises the regulatory power and assures the execution of the laws. He exercises his powers by decrees countersigned, the case arising, by the Vice-President and the concerned Minister. The countersignature does not intervene for the acts of the President of the Republic deriving from Articles 86, 90, 92, 156, and 254 of this Transitional Constitution. However, the President of the Republic shall be obliged to consult the Vice-President beforehand.

The President of the Republic may delegate his powers to the Vice-President, except for those enumerated in the preceding paragraph.

**Article 84**

The President of the Republic and the Vice-President, after consultation with leaders of political parties, appoints the members of the Transitional Government of National Unity. They terminate their function.

**Article 85**

The President of the Republic is the head of the Government. He presides over the Council of Ministers.

**Article 86**

The President of the Republic, head of the State, is the Commander-in-Chief of the Defence and of Security Forces. He declares war, may send troops to overseas missions and signs the armistice after consultation with the Vice-President, with the Transitional Government of National Unity, with the Bureaus of the Transitional National Assembly and of the Transitional Senate and with the National Council of Security.

**Article 87**

The President of the Republic appoints the superior civil and military offices.

An organic law determines the categories of offices specified in the preceding paragraph.

The appointments to the high civil, military and judicial functions as specified in Article 147-9 of this Transitional Constitution only become effective if they are approved by the Transitional Senate.

**Article 88**

The President of the Republic shall be obliged to consult the Transitional Government of National Unity for appointments of Chiefs of Defence and Security Forces, Governors of Provinces, Commune [Municipality] Administrators, and members of the Constitutional Courts.

**Article 89**

The President of the Republic appoints and recalls the ambassadors and the extraordinary envoys to foreign States and receives the letters of credentials and of recalls of the ambassadors and extraordinary envoys from foreign States.

**Article 90**

The President of the Republic has the right of pardon which he exercises after consultation with the Vice-President of the Republic and after receiving the opinion of the Supreme Council of Magistracy.

**Article 91**

The President of the Republic confers the national orders and the decorations of the Republic.

**Article 92**

When the institutions of the Republic, the independence of the nation, the integrity of the territory or the performance of his international commitments are threatened in a serious and immediate manner and when the regular functioning of the authorities is interrupted, the President of the Republic may declare by statutory order a state of exception and take all the measures demanded by the circumstances, after official consultations with the Vice-President of the Republic, the committees of the Transitional National Assembly and of the Transitional Senate, the Transitional Government of National Unity and the National Security Council.

The President of the Republic informs the nation of this step by message.

These measures must be inspired by the desire to ensure that the constitutional authorities have, within the shortest possible time, the means of accomplishing their task.

The Constitutional Court is consulted on these measures. The Transitional Parliament may not be dissolved during the exercise of exceptional powers.

#### **Article 93**

The functions of President of the Republic are incompatible with the exercise of any other elective public function, of any public employment and of any professional activity.

They are also incompatible the function of leader of a political party.

#### **Article 94**

The President of the Republic is only penally responsible for the acts accomplished in the exercise of his functions in case of high treason.

There is high treason when, in violation of the Charter of National Unity, the Arusha Peace and Reconciliation Agreement for Burundi, the Transitional Constitution or of the law, the President of the Republic deliberately commits an act contrary to the superior interests of the nation which gravely compromises the national unity, social peace, social justice, the development of the country, or gravely infringes the human rights, the territorial integrity, the national independence and the national sovereignty.

The crime of high treason belongs to the competence of the High Court of Justice.

The crimes which may constitute crimes of high treason likely to be reproached to the President of the Republic and applicable sentence are defined by law.

The President of the Republic may only be impeached by the Transitional National Assembly and the Transitional Senate meeting in Congress and deciding by secret vote, by a majority of two-thirds of their members. The investigation may only be conducted by a team of at least three magistrates of the General Office of Prosecutors of the Republic presided over by the General Prosecutor of the Republic.

#### **Article 95**

Outside of the acts that arise from his discretionary competence, the administrative acts of the President of the Republic may be challenged before the competent jurisdictions.

#### **Article 96**

At the expiration of his functions, a Head of State has the right, except in the case of condemnation for high treason, to a pension and to all other privileges and facilities determined by the law.

#### **Article 97**

In the case of absence or temporary impediment of the President of the Republic, the Vice-President assures the administration of current affairs.

In case of resignation, death, or incapacity of the Republic of president, the new transitional president is elected by the transitional National Assembly and the Transitional Senate convened by a resolution approved by two-thirds of the members. While waiting for the election of the new president, the president of the Transitional National Assembly, assisted by the vice-president of the Republic, acts as the president of the Republic. If the latter is in turn impeded to exercise his functions, the interim is assured by the government.

The vacancy is declared by the Constitutional Court referred to [the matter] by the Transitional Government of National Unity represented by the Vice-President of the Republic. The interim authority may not form a new Government.

The new president of the Republic emanates from the same ethnic and the same political family of his predecessor. He is elected in period not exceeding thirty days from the day observing the vacancy. The new president of the Republic terminates the mandate of his predecessor.

The Vice-President of the Republic continues to assure his functions.

#### **Article 98**

Anyone who has served as President of the Republic during the transitional period is ineligible for the first presidential elections.

## **2. The Vice-President of the Republic**

#### **Article 99**

The Vice President of the Republic of the first transitional phase is appointed within the framework of the Arusha negotiations. He must be of a different ethnicity and political family from those of the President of the Republic. His term of office is 18 months. It begins on the day of its oath.

The Vice President of the Republic of the second phase of the transitional period is proposed by the family of the President of the Republic of the first transitional period. He must also be of a different ethnicity from that of the President of the Republic. If this political family does not agree on a candidacy, the Bureau of the Transitional National Assembly and the Transitional Senate, the President of the Republic and the Vice-President of the Republic shall pre-select one of these candidates that they submit to the transitional Parliament. The new Vice-President of the Republic is elected by the Transitional National Assembly and the Transitional Senate meeting in Congress by a resolution approved by two-thirds of the members.

#### **Article 100**

At the moment of entering into functions, the Vice-Presidents solemnly takes the following oath, received by the Constitutional Court, before the Transitional National Assembly:

Before the Burundian people, sole holder of the national sovereignty, I (enounce the name), Vice-President of the Republic of Burundi, swear fidelity to the Charter of the National Unity, to the Constitution of the Republic of Burundi and to the law and engage myself to dedicate all my forces to the defence of the superior interests of the nation, to assure the unity and the national cohesion of the Burundian people, social peace and justice. I engage myself to fighting any ideology and practice of genocide and of exclusion, to promoting and defending the individual and collective rights and freedoms of the person and of the citizen, and to safeguarding the integrity and the independence of the Republic of Burundi.

#### **Article 101**

The Vice-President takes by order, each one in their sector, all the measures of execution of the presidential decrees and other acts specifically defined by law.

The Ministers given the charge of their execution countersign the orders of the Vice-President.

He chairs the Council of Ministers with the express delegation of the President of the Republic and for a specific agenda.

#### **Article 102**

In the case of resignation, death or of any other cause of definitive cessation of his function, a new Vice-President of the Republic, originating from the same ethnicity and of the same political party as their predecessor, is elected, within a period not exceeding thirty days counting from the

establishment of the vacancy, by resolution approved by two-thirds of the members of the Transitional National Assembly and the Transitional Senate setting in joint session. The new Vice-President terminates the mandate of its predecessor.

### **3. The Transitional Government of National Unity**

#### **Article 103**

There shall be a maximum of twenty-six members of the Transitional Government of National Unity.

The Transitional Government of National Unity widely representative should be composed of representatives of the different political parties in order to promote the unity and cohesion of the Burundian people, taking into account the different ethnic and political components of the country and The Arusha Agreement for Peace and Reconciliation in Burundi.

#### **Article 104**

The President of the Republic and the Vice-President of the Republic shall ensure that the Minister given the charge of the Force of National Defence is not of the same ethnicity as the Minister responsible for the National Police.

#### **Article 105**

The Transitional Government of National Unity determines and conducts the policy of the nation within the framework of the decisions taken by consensus in the Council of Ministers.

It shall take its decisions and operate generally in accordance with the spirit of the principle of a Government of national unity. It makes decisions by consensus. He makes or proposes appointments in the civil service and diplomatic posts in the same spirit. It also takes into account the need to maintain ethnic, regional, religious, political and gender balance in its decisions and appointments.

#### **Article 106**

The Transitional Government of National Unity deliberates obligatorily on the general policy of the State, the bills of international treaties and agreements, the bills of laws, the bills of presidential decrees, the orders [arrêtés] of a Vice-President and the ordinances of the Ministers having a character of general regulation.

#### **Article 107**

The members of the Government are responsible before the President of the Republic.

#### **Article 108**

The members of members of the Government are the heads of the ministerial departments entrusted to them.

They take, by ordinance, all measures to apply the decrees of the President of the Republic and the orders of a Vice-President of the Republic

#### **Article 109**

Members of the Transitional Government of National Unity are criminally responsible for acts committed in the performance of their duties and described as crimes or offenses at the time of their commission.

#### **Article 110**

The functions of member of the Government are incompatible with the exercise of all [other] professional activity and the exercise of a parliamentary mandate.

#### **Article 111**

At the moment of entering into their functions, the members of the Transitional Government of National Unity solemnly take the following oath before the Transitional National Assembly and the President of the Republic:

"Before the President of the Republic, before the Parliament, I (enounce the name), swear fidelity to the Charter of the National Unity, to the Constitution and to the law. I engage myself to consecrate all my forces to the defence of the superior interests of the nation, to promote the unity and the cohesion of the Burundian People, social peace and justice in the accomplishment of the functions entrusted in me. I engage myself to fight any ideology and practice of genocide and of exclusion, and to promote and to defend the rights and freedoms of the person and of the citizen."

### **4. The Governor of Province**

#### **Article 112**

The executive power is delegated, at the provincial level, to a Governor of the province given the charge of coordinating the services of the administration working in the province.

The Governor of the province exercises, in addition, the powers that the laws and the regulations attribute to him.

#### **Article 113**

The Governor of the province is appointed by the President of the Republic, after consultation with the Vice-President and after confirmation with the Transitional Consultation. He must be a civilian, native or from [ressortissant] the territorial entity that he is called to administer.

However, in view of the security situation prevailing in a given territorial entity and duly assessed by the President and Vice-President of the Republic, a serving member of the defence and security forces may be appointed to the office of governor in accordance with the procedure provided for in the first paragraph.

### **5. Public Administration**

#### **Article 114**

Public administration must be depoliticised to ensure its stability. A law distinguishes political functions and technical functions.

Holders of the first category may change with the regimes while the technical executives must have a guarantee of continuity.

The administration must be qualified, performing and responsible. It favours the general interest and the correction of imbalances of all kinds.

## TITLE VI: LEGISLATIVE POWER

### 1. The provisions common to the national assembly and to the senate

#### Article 115

The transitional legislative power is exercised by the Transitional Parliament, which includes two chambers: 'the Transitional National Assembly' and the 'Transitional Senate'.

The members of the Transitional National Assembly bear the title of Deputy; those of the Transitional Senate bear the title of Senator.

No one may belong at the same time to the Transitional National Assembly and to the Transitional Senate.

#### Article 116

Deputies and Senators hold office until the legislative elections scheduled during the transition period.

#### Article 117

An organic law establishes the conditions in which the Deputies and Senators are replaced in the case of the vacancy of a seat.

#### Article 118

The mandate of deputies and senators has a national character. All imperative mandates are null.

The vote of deputies and senators is personal.

The internal regulations of the Transitional National Assembly and of the Transitional Senate may authorise exceptionally the delegation of the vote. However, no one may receive the delegation of more than one mandate.

#### Article 119

Parliamentarians and senators may not be prosecuted, searched, arrested, detained or judged for opinions or votes issued during session.

Except in the case of flagrante delicto, the Deputies and the Senators may not, during the duration of the sessions, be prosecuted except with the authorisation of the Bureau of the Transitional National Assembly or of the Bureau of the Transitional Senate.

The Deputies and the Senators may not, out of session, be arrested except with the authorisation of the Bureau of the Transitional National Assembly for the Deputies or the Bureau of the Transitional Senate for the Senators, except in the case of flagrante delicto, of prosecutions already authorised or of definitive condemnation.

#### Article 120

The mandate of Deputy or of Senator is incompatible with any other function of public character. An organic law may exempt certain categories of local elected [persons] or of agents of the State from the regime of incompatibility with the mandate of Deputy or of Senator.

#### Article 121

An organic law establishes the regime of indemnities and advantages of the Deputies and the Senators as well as the regime of the incompatibilities. It equally specifies their specific regime of social security.

At the moment of entering into [their] functions and at the end of them, the members of the Bureau of the Transitional National Assembly and of the Transitional Senate are required to make on their honour a written declaration of their assets and patrimony addressed to the competent jurisdiction.

The Transitional National Assembly and Transitional Senate enjoy each administration and financial management autonomy.

#### **Article 122**

A Deputy or a Senator appointed to the Government or any other public function incompatible with the parliamentary mandate and who accepts it, ceases immediately to sit in the Transitional National Assembly or in the Transitional Senate and is replaced by their substitute.

#### **Article 123**

The mandate of Deputy and that of Senator ends by the death, the resignation, the permanent incapacity and the unjustified absence in more than one-quarter of the meetings of a session or when the Deputy or the Senator falls into one of the cases of forfeiture specified by an organic law.

#### **Article 124**

Except in the case of force majeure duly declared by the Constitutional Court, the deliberations of the National Assembly and of the Senate are only valid if they take place in the ordinary place of their sessions.

The sittings of the National Assembly and of the Senate are public. However, the National Assembly and the Senate may meet in closed [sitting] in the case of need.

The record of the debates of the National Assembly and of the Senate is published in the Parliamentary Gazette.

#### **Article 125**

The Parliament votes the law and controls the action of the Government.

#### **Article 126**

The following are of the domain of the law:

1) Fundamental guarantees and obligations of the citizen:

- Safeguarding of individual freedoms;
- Protection of the public freedoms;
- Restrictions imposed, in the interest of national defence and public security, upon the person and goods of the citizens.

2) The status of the persons and of the assets:

- nationality, status and capacity of persons;
- matrimonial regimes, inheritance and gifts;
- regime of the property, of the real rights and of the civil and commercial obligations;

3) The political, administrative and judicial organisation:

- general organisation of the administration;
- territorial organisation, creation and modification of the administrative circumscriptions as well as the electoral divisions;
- electoral districts;
- electoral regime;
- general organisation of the national orders, of the decorations and of the honorific titles;
- general rules of organisation of the national defence;
- statute of the personnel of the Military, Public Security and related Forces;
- general principles of the public function;
- statute of the public function;

- statute of the personnel of the Parliament;
- state of exception;
- organic framework of creation and of suppression of the public [and] autonomous establishments and services;
- organisation of the jurisdictions of all orders and procedure followed before these jurisdictions, creation of new orders of jurisdiction;
- determination of the status of the magistracy, of the ministerial offices and of the auxiliaries of justice;
- determination of the crimes and misdemeanours as well as of the applicable sentences;
- organisation of the bar;
- penitentiary regime;
- amnesty.

4°. The protection of the environment and the conservation of the natural resources;

5°. The financial and patrimonial issues:

- regime for the emission of the currency;
- budget of the State;
- definition of the tax base and of the rate of the taxes and the assessments [taxes];
- alienation and administration of the domain of the State;

6°. The nationalisation and denationalisation of enterprises and the transfer of property of enterprises from the public sector to the private sector;

7°. The regime of education and of the scientific research;

8°. The objectives of the economical and social action of the State;

9°. The legislation of work, of social security, of the trade-union right, including the conditions for the exercise of the right to strike.

#### **Article 127**

The matters other than those of the domain of the law have a regulatory character.

The texts of legislative form intervening in these matters may be modified by presidential decree issued after opinion of the Constitutional Court, as soon as this Transitional Constitution comes into forces.

#### **Article 128**

The texts of regulatory form intervening in the matters relevant of the domain of the law may be modified by legislation as soon as this Transitional Constitution, after opinion of the Constitutional Court.

#### **Article 129**

The law of finance determines, for each year, the resources and the charges of the State.

#### **Article 130**

A Court of Accounts is created and organised by law, it will be given the charge of examining and certifying the accounts of all the public services.

The Court of Accounts presents to the Transitional National Assembly a report on the regularity of the general account of the State and confirms whether the funds have been used in accordance with the established procedures and with the budget approved by the Transitional National Assembly.

### **Article 131**

The two chambers of the Transitional Parliament meet in Congress to:

1. Receive a message from the President of the Republic;
2. Elect the President or Vice-President of the Republic;
3. Accuse the President of the Republic in cases of high treason;
4. Evaluate the implementation of the Arusha Agreement for Peace and Reconciliation in Burundi;
5. Adopt the draft of the post-transition Constitution to be submitted to the referendum;
6. Re-examine the bill of the law of finance in accordance with Article 140;

The Bureau of the Transitional Parliament in Congress is composed of the Bureaux of the Transitional National Assembly and the Transitional Senate.

The Presidency and Vice-Presidency of sessions shall be chaired respectively by the President of the Transitional National Assembly and the President of the Transitional Senate.

### **Article 132**

The Transitional Parliament in joint session organises every six-month a session to evaluate the implementation of the agreement, based on reports from the Government and the Commission for the Implementation of the Agreement.

The Government, the National Councils and the Commissions provided for in Title XIII shall participate as of right in this Congress. They can ask the floor and answer the questions put to them.

Members of the Transitional National Assembly co-opted for the Transitional Senate are not replaced.

## **2. The Transitional National Assembly**

### **Article 133**

Subject to the co-optation of the members of the Transitional National Assembly in favour of the Transitional Senate in accordance with the provisions of Article 141, the Transitional National Assembly shall be composed as follows:

1. The members of the National Assembly elected on 29 June 1993. In the event of a vacant seat, the latter shall be occupied by an alternate member in the [prescribed] order in a useful position.
2. Four members appointed by each of the participating parties which not won a seat in the 1993 elections, including these who already sit if any;
3. The 28 members representing civil society in the National Assembly in office;
4. The appointed members who are currently in the National Assembly, irrespective of the return of the members of the National Assembly elected in 1993;
5. However, deputies or alternates outside the National Assembly in office shall retain their right to maintain their seats for sixty days after the establishment of the Transitional National Assembly. After this period, they will be placed in the position of alternate of first [prescribed] order.

Members of the Transitional National Assembly co-opted for the Transitional Senate are not replaced.

### **Article 134**

The Rules of Procedure of the Transitional National Assembly are those of the National Assembly elected in 1993 until duly amended.

The first session of the National Assembly shall meet, without requiring to be convened, on the first working day following the seventh day after its installation. Its agenda includes the election of the

Bureau [of the Transitional National Assembly]. This session is chaired by the office of the current National Assembly.

The Bureau of the Transitional National Assembly includes a president, two vice-presidents, a secretary-general and a deputy secretary-general. It must be constituted in accordance with the political-ethnic balances characterising the political families involved in the implementation of the Arusha Peace and Reconciliation Agreement in Burundi. Specifically, the President and Vice-President of the Transitional National Assembly must come from two different political families.

The President and other members of the Bureau of the Transitional National Assembly shall be elected until the legislative elections scheduled during the transitional period. However, their functions may be terminated during the transitional period under the conditions laid down in the Rules of Procedure of the Transitional National Assembly.

#### **Article 135**

If political parties represented in the Transitional National Assembly decide to merge, the new party that emerged from the merger maintain the number of seats available hold by these parties.

#### **Article 136**

Parliamentary groups may be formed within the Transitional National Assembly. The rules of procedure of the Transitional National Assembly determine the organisational arrangements.

#### **Article 137**

The Transitional National Assembly meets every year in three ordinary sessions of three months each. The first session debuts on the first Monday of the month of February, the second session on the first Monday of the month of June and the third session on the first Monday of the month of October.

Extraordinary sessions, not exceeding a duration of fifteen days, can be convoked at the demand of the President of the Republic, the Vice-President of the Republic or at the demand of the absolute majority of the members composing the National Assembly, on a determined agenda.

The extraordinary sessions are opened and closed by decree of the President of the Republic.

#### **Article 138**

The Transitional National Assembly may not deliberate validly except if two-thirds of the Deputies are present. The laws are voted by the majority of two-thirds of the Deputies present or represented.

The organic laws are voted by the majority of two-thirds of the Deputies present or represented, this majority cannot be inferior to the absolute majority of the members composing the Transitional National Assembly.

The majority of two-thirds of the Deputies present or represented is equally required for the vote of the resolutions, of the decisions and of the important recommendations.

#### **Article 139**

The Transitional National Assembly is referred to the bill of the law of finance from the opening of the session of October.

#### **Article 140**

The Transitional National Assembly votes the general budget of the State. If the Transitional National Assembly has not decided at the date of December 31, the budget of the preceding year is taken back by provisional twelfths.

At the request of the President of the Republic, the Transitional Parliament meets in Congress within a time period of fifteen days to re-examine the bill of the law of finance.

If the Transitional Parliament has not voted the budget by the end of this session, the budget is definitively established by decree-law taken in the Council of Ministers.

### **3. The Transitional Senate**

#### **Article 141**

The Transitional Senate is appointed by the President of the Republic, the Vice-President of the Republic, and the Bureau of the Transitional National Assembly ensuring to respect political, ethnical, and regional equilibrium.

It is composed of:

1° The former Heads of the State;

2° Three persons originating from the Twa ethnicity;

3° At least two delegates from each province originating from different ethnic group co-opted from the Transitional National Assembly and from outside of it.

In any case, the number of senators, ethnically and politically equal, cannot be higher than 54.

#### **Article 142**

From its first session, the Transitional Senate adopts its internal regulations which determine its organisation and its functioning. It equally puts in place its Bureau. Until the election of its President, this session is presided over by the oldest Senator.

#### **Article 143**

The Bureau includes one President, two Vice-Presidents, a Secretary-General and a Deputy Secretary-General. It must be constituted in respect of ethnic balances. The president and vice-president of the transitional Senate cannot be from the same political-ethnic family.

Members of the Bureau of the Transitional Senate may be replaced only under the conditions set out in the Rules of Procedure of the Transitional Senate.

#### **Article 144**

The formation of parliamentary groups is forbidden within the Transitional Senate.

#### **Article 145**

The Transitional Senate meets every year in three ordinary sessions at the same moment as the Transitional National Assembly. The total duration of each session may not exceed three months.

Extraordinary sessions, not exceeding a duration of fifteen days, can be convoked at the demand of the President of the Republic, the Vice-President or at the demand of the absolute majority of the members composing the Transitional Senate, on a determined agenda.

They are opened and closed by decree of the President of the Republic.

#### **Article 146**

The Transitional Senate may not deliberate validly except if two-thirds of the Senators are present. The decisions are made with a majority of two-thirds of the Senators present or represented.

### **Article 147**

The Transitional Senate is provided with the following competences:

1. Approving the amendments to the Constitution and to the organic laws, including the laws governing the electoral process;
2. Approving the texts of the laws concerning the political parties, the delimitation, the attributions and the powers of the provinces, communes and hills [formal territorial entities];
3. Conducting inquiries in the public administration and, the case arising, making recommendations to assure itself that no region or no group is excluded from the benefit of the public services;
4. Controlling the application of the constitutional provisions by demanding the representativeness and the equilibrium in the composition of all elements of the civil service, the defence and security forces;
5. Advising the President of the Republic and the President of the National Assembly on all issues, notably [those] of a legislative order;
6. Ensuring the respect of the implementation of the Arusha Agreement for Peace and Reconciliation in Burundi;
7. Formulating observations or proposing amendments concerning the legislation adopted by the Transitional National Assembly;
8. Elaborating and presenting proposals of laws for examination by the National Assembly;
9. Approving the appointments only to the following functions:
  - a. Heads of the Defence and of Security Forces;
  - b. Governors of provinces and communes administrations;
  - c. Supreme Council of the Judiciary;
  - d. Members of the Supreme Court;
  - e. Members of the Constitutional Court;
  - f. General Prosecutor of the Republic and Magistrates of the Office of General Prosecution of the Republic;
  - g. President of the Court of Appeal and President of the Administrative Court;
  - h. Ambassadors;
  - i. General Prosecutor before the Court of Appeal;
  - j. Presidents of the [Ordinary] Tribunals of First Instance, of the Tribunal of Commerce and of the Tribunal of Labor;
  - k. Prosecutors of the Republic;
  - l. Members of the Independent National Electoral Commission.

#### 4. The Procedure to adopt law

##### Article 148

The bills and the proposals of law are presented simultaneously to the Bureaus of the Transitional National Assembly and of the Transitional Senate.

Every proposal bill of law and every of law specifies if it treats a matter falling within the competence of the Transitional Senate in accordance with Article 147.

Only the texts referred to in the preceding paragraph are registered in the agenda of the Transitional Senate.

In the case of doubt or of litigation concerning the receivability of a text, the President of the Republic, the President of the Transitional National Assembly or the President of the Transitional Senate refer [the matter] to the Constitutional Court which decides on it.

##### Article 149

In matters other than those referred to in Article 147, the text is adopted in the first reading by the Transitional National Assembly. It is immediately transmitted to the Senate by the President of the National Assembly.

At the demand of its Bureau or of one-third of its members at least, the Transitional Senate examines the bill of a text. This demand is formulated within seven days from the reception of the bill.

In a time period that may not exceed ten days counting from the demand, the Transitional Senate may either decide that there is no need to amend the bill or the proposal of law, or adopt the bill or the proposal of law after having amended it.

If the Transitional Senate has not decided within the granted time period or if it has informed the Transitional National Assembly of its decision of not amending the bill of [a] text, the President of the Transitional National Assembly transmits it within forty-eight hours to the President of the Republic for promulgation.

If the bill was amended, the Senate transmits it to the Transitional National Assembly which decides, either by adopting, or by rejecting wholly [tout] or in part the amendments adopted by the Transitional Senate.

##### Article 150

If, on the occasion of the examination referred to in the last paragraph of Article 149, the Transitional National Assembly adopts a new amendment, the bill of law is returned to the Transitional Senate which makes a decision on the amended bill.

Within a period not exceeding five days counting from the date of the return [of the bill], the Transitional Senate may, either decide to accept the bill amended by the Transitional National Assembly, or to adopt the bill after having amended it again.

If the Transitional Senate has not decided within the granted period or if it has informed the Transitional National Assembly of its decision to accept the bill voted by the Transitional National Assembly, this one transmits it within forty-eight hours to the President of the Republic for promulgation.

If the bill has been amended again, the Transitional Senate transmits it to the Transitional National Assembly which decides definitively, either by adopting, or by amending the bill of law.

### **Article 151**

In the matters referred to in Article 147, paragraph 1 and 2, the text adopted by the Transitional National Assembly is transmitted for adoption to the Senate by the President of the Transitional National Assembly.

The Transitional Senate may adopt the bill, within a period not exceeding thirty days, either without amendment, or after having amended it.

If the Transitional Senate adopts the bill without amendment, the President of the Senate returns the adopted text to the President of the National Assembly who transmits it within forty-eight hours to the President of the Republic for promulgation.

If the Transitional Senate adopts the bill after having amended it, the President of the Transitional Senate transmits it to the Transitional National Assembly for a new examination. If the amendments proposed by the Transitional Senate are accepted by the Transitional National Assembly, the President of the Transitional National Assembly transmits, within forty-eight hours, the definitive text to the President of the Republic for promulgation. When, following a disagreement between the two chambers, a bill or a proposal of law could not be adopted, the President of the Transitional National Assembly and the President of the Transitional Senate create a joint mixed commission [commission mixte paritaire] given the charge of proposing a common text on the whole or the part of the text remaining in discussion, within 15 working days.

The text elaborated by the joint mixed commission is submitted for approval to the two chambers. No amendment is receivable. Each of the two chambers approves it separately. If the mixed commission does not succeed in the adoption of a common text, or if this text is not adopted by one or the other chamber, the President of the Republic may either demand the Transitional National Assembly to definitively decide or declare the bill or the proposal of law lapsed. The Transitional National Assembly adopts this text with a majority of two-thirds.

## **TITLE VII: RELATIONS BETWEEN EXECUTIVE AND JUDICIAL POWER**

### **Article 152**

The agenda of the sessions of the Transitional National Assembly and of the Transitional Senate includes[,] on priority and in the order that the Government has established [,] the discussion of the bills of law presented by the Government and of the proposals of law presented by the members of the Transitional National Assembly or of the Transitional Senate. If a proposal of law could not be studied during two successive ordinary session, it must be registered as a priority in the agenda of the following session.

### **Article 153**

The initiative of the laws belongs concurrently to the Transitional National Assembly, to the Transitional Senate, to the President of the Republic and to the Transitional Government of National Unity.

### **Article 154**

The Transitional Government of National Unity has the right to propose amendments to the proposals of law submitted by the members of the Transitional Parliament.

The Transitional National Assembly and the Transitional Senate have the right to deliberate, propose amendments to the bills of law or reject the bills of law presented by the Government.

However, the proposals and amendments formulated by the members of the Transitional National Assembly or of the Transitional Senate are not receivable when their adoption would have as consequence, either an important diminution of the public resources, or the creation or the aggravation of an important public charge, unless those proposals or amendments are accompanied by proposals of compensatory receipts.

When the Transitional National Assembly or the Transitional Senate has entrusted the examination of a bill or of a proposal of law to a parliamentary commission, the Transitional Government of National Unity may, after the opening of the debates, oppose itself to the examination of any amendment that has not been previously submitted to that commission.

If the Transitional Government of National Unity demands it, the [requested] chamber votes by a sole vote on all or part of the text by retaining only the amendments proposed or accepted by it.

#### **Article 155**

The Transitional Government of National Unity may, for the implementation of its program, ask the Transitional Parliament for the authorisation to take by decrees-law, for a limited time period, the measures that are normally of the domain of the law.

These decrees-laws must be ratified by the Transitional Parliament in the course of the following session. In the absence of a law of ratification, they are struck down as lapsed.

#### **Article 156**

The President of the Republic promulgates the laws adopted by the Transitional Parliament within a time period of thirty days counting from the day of their transmission, if he does not formulate any demand of a second reading or [if he] has not referred [the matter] to the Constitutional Court for unconstitutionality. The request for a new examination may concern all or part of the law. After a second reading, the same text may not be promulgated except if it has been voted by a majority of three-quarters of the Deputies and three-quarters of the Senator.

Before promulgating the organic laws, the President of the Republic must have their conformity to the Constitution verified by the Constitutional Court.

#### **Article 157**

The President of the Republic may, after consultation with the Vice-President of the Republic, with the President of the Transitional National Assembly and with the President of the Transitional Senate, submit to a referendum any draft of a constitutional, legislative or other text, susceptible of having profound repercussions on the life and the future of the Nation or on the nature or the functioning of the institutions of the Republic.

#### **Article 158**

The President of the Republic communicates with the Transitional Parliament meeting in Congress through message. This message does not give rise to any debate.

The President of the Republic pronounces a message on the state of the nation during the month of February of each year. This message should not be debated.

For other messages, it may delegate the Vice-President of the Republic or another member of the Government. These messages may be debated.

#### **Article 159**

The members of the Government may assist to the sessions of the Transitional National Assembly and of the Transitional Senate. They are heard every time they so demand it. They may be assisted by experts.

#### **Article 160**

The members of the Transitional National Assembly and of the Transitional Senate have the right to debate the action and the policy of the Government.

#### **Article 161**

The Transitional National Assembly and the Transitional Senate may inform themselves about the activity of the Government by way of oral or written questions addressed to the members of the Government.

During the session, one sitting [séance] per week is reserved by priority to the questions of the Deputies and of the Senators and to the answers of the Government.

The Transitional Government of National Unity is required to provide the Transitional National Assembly and the Transitional Senate all the explanations that are asked from it on its administration and on its acts.

#### **Article 162**

The Transitional National Assembly and the Transitional Senate have the right to constitute parliamentary commissions given the charge of inquiring on specific subjects of the governmental action.

#### **Article 163**

The Transitional National Assembly cannot present a motion of no-confidence against the Government and it cannot be dissolved.

However, a motion of no-confidence may be passed with a majority of two-thirds of members of the Transitional National Assembly against a member of the Government who shows a manifest failure in the administration of their ministerial department or who performs acts contrary to the oath he took when he took office, who, by their conduct, disturbs the normal functioning of the Parliament. In this case, the member of the Government presents his resignation obligatorily.

### **TITLE VIII: JUDICIAL POWER**

#### **Article 164**

Justice is rendered by the courts and tribunals in all the territory of the Republic in the name of the Burundian People.

The role and the attributions of the Public Ministry are fulfilled by the Prosecuting Magistrates. However, the judges of the [Ordinary] Tribunals of Residence and the officers of the police may fulfil vis-a-vis these tribunals the duties of the Public Ministry under the surveillance of the Prosecutor of the Republic.

An organic law establishes the organisation and the judicial competences.

#### **Article 165**

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

In the exercise of the functions, the judge is subject only to the Transitional Constitution and to the law.

**Article 166**

The procedures of recruitment and appointment in the judicial sector submit to the concern to promote ethnic equilibrium and the equilibrium between genders.

Any appointment to the judicial office referred to in Article 147-9 ° shall be made by the President of the Republic on the proposal of the Supreme Council of Magistracy and after confirmation by the Transitional Senate.

**Article 167**

The hearings of the jurisdictions are public, except in case of closed session pronounced by judicial decision, when the publicity is dangerous to the public order or to morality.

**Article 168**

Any judicial decision must be substantiated before being pronounced in a public hearing.

**Article 169**

The President of the Republic, Head of the State, is the guarantor of the independence of the Magistracy. He is assisted in this mission by the Supreme Council of Magistracy.

**1. OF THE SUPREME COUNCIL OF MAGISTRACY**

**Article 170**

The Supreme Council of Magistracy sees to the good administration of justice. It is the guarantor of the independence of the presiding magistrates in the exercise of their functions. He is consulted in the appointment and advancement of the magistrates of the higher courts and the public prosecutor.

**Article 171**

The Supreme Council of Magistracy is the highest disciplinary instance of the Magistracy. It receives complaints from individuals concerning the professional conduct of magistrates, as well as recourse by magistrates against disciplinary measures and complaints concerning their careers.

**Article 172**

The Supreme Council of Magistracy assists the President of the Republic and the Government in: the elaboration of the policy on [the] matter of justice; the following of the situation of the country in the judicial domain and in that of human rights; the elaboration of the strategies in [the] matter of the fight against impunity.

The Council shall be consulted by the President of the Republic on appointments of officials of higher courts and public prosecutors referred to in Article 147-9 °.

The Council draws up a report on the state of justice once a year. A copy of the latter is addressed to the Transitional Government of National Unity and to the Presidents of the Transitional National Assembly and the Transitional Senate.

**Article 173**

The Supreme Council of Magistracy is composed of:

- five members designated by the Transitional Government of National Unity;
- three judges of the High Court;
- two Magistrates from the Public Prosecutor of the Republic;
- two judges of the [Ordinary] Tribunals of Residence;

- three members exercising a juridical profession in the private sector. The members of the second, third and fourth category are elected by their peers.

Members of the second, third and fourth categories are elected by their peers.

The composition of the Supreme Council of Magistracy is balanced on the ethnic level.

All members of the Supreme Council of Magistracy are approved by the Transitional Senate.

#### **Article 174**

The Council is chaired by the President of the Republic assisted by the Minister of Justice.

#### **Article 175**

An organic law determines the organisation and the functioning of the Supreme Council of Magistracy as well as the modalities of designation of its members.

## **2. OF THE SUPREME COURT**

#### **Article 176**

The Supreme Court is the highest ordinary jurisdiction of the Republic. It is guarantor of the good application of the law by the courts and tribunals. It includes:

- (1) a chamber of cassation that hears appeals against last-instance decisions handed down by the courts other than those referred to in the first paragraph of Article 177;
- (2) an administrative chamber which reviews appeals against decisions handed down by administrative courts and on other appeals provided for in the laws;
- (3) a judicial chamber which deals with offenses committed by the political office holders that may be tried by the Supreme Court in the first and last resort.

#### **Article 177**

Decisions of the Administrative and Judicial Chambers of the Supreme Court and decisions of courts of the same rank as the Supreme Court are subject to cassation before the Supreme Court.

The decisions of the Supreme Chamber of Cassation and of the Supreme Court in all chambers are not subject to any appeal, except for pardon or review.

#### **Article 178**

The judges of the Supreme Court are appointed by the President of the Republic on [a] proposal by the Minister having justice within his attributions, after [the] opinion of the Supreme Council of Magistracy and with the approval of the Transitional Senate.

#### **Article 179**

An organic law specifies the composition and the organisation of the Supreme Court as well as the procedure applicable before it.

It also determines the rules of procedure and the procedure applicable to this Court.

### 3. The Constitutional Court

#### Article 180

The Constitutional Court is the highest court of the state in constitutional matters. It is the judge of the constitutionality of laws and interprets the Transitional Constitution.

#### Article 181

The Constitutional Court is composed of 7 members. The president, the vice-president and the career magistrates are permanent.

They are appointed by the President of the Republic and approved by the Transitional Senate. They have a six-year non-renewable term.

Three of these members are appointed for a term of three years. The remaining four are appointed for a six-year term beginning with the transition period. Appointments are made in the first month of transition.

They are replaced in accordance with the provisions of the post-transition Constitution.

Members of the Constitutional Court shall be chosen from among jurists recognised for their moral integrity, impartiality and independence.

At least three of the members of the Constitutional Court are career magistrates.

#### Article 182

The Constitutional Court may only sit validly if five at least of its members are present. Its decisions are taken with the absolute majority of the sitting members, the voice of the President being preponderant in the case of equal sharing of the voices.

#### Article 183

The Constitutional Court is competent to:

1. Decide on the constitutionality of laws and regulatory acts adopted in matters other than those relevant to the domain of the law;
2. Interpret the Transitional Constitution, at the request of the President of the Republic, of the President of the Transitional National Assembly, of the President of the Transitional Senate, of one quarter of the Deputies or of one quarter of the Senators;
3. Decide on the regularity of elections and of the referenda and to proclaim their definitive results;
4. Receive the oath of the President of the Republic, of the Vice-Presidents of the Republic and of the members of the Government before their entry into [their] functions;
5. Declare the vacancy of the position of President of the Republic;
6. Verify whether the post-transition Constitution adopted by the Transitional National Assembly is in conformity with the Arusha Agreement for Peace and Reconciliation in Burundi.

The organic laws before their promulgation, the internal regulations of the Transitional National Assembly and of the Transitional Senate before their application, are submitted obligatory to the control of constitutionality.

#### Article 184

The Constitutional Court is equally competent to decide on the cases specified in Articles 92, 124, 127, 128, 148, 188, 254.

#### Article 185

Questions are referred to the Constitutional Court by the President of the Republic, the President of the National Assembly or the President of the Transitional Senate, by a quarter of the members of

the Transitional National Assembly or a quarter of the members of the transitional Transitional Senate.

Every physical or moral person interested, as well as the Public Minister, may request the Constitutional Court to rule on the constitutionality of laws, either directly by means of an action or by the procedure of exception of unconstitutionality invoked in a matter subject to another jurisdiction. This suspends judgment until the decision of the Constitutional Court, which must intervene within thirty days.

**Article 186**

A provision declared unconstitutional may not be promulgated or put into application. The decisions of the Constitutional Court are not susceptible to any recourse.

**Article 187**

An organic law determines the organisation and the functioning of the Constitutional Court as well as the procedure applicable before it.

#### **4. The High Court of Justice**

**Article 188**

The High Court of Justice is composed of the Supreme Court and of the Constitutional Court jointly. It is presided by the President and the President of the Supreme Court; the Public Ministry is represented by the General Prosecutor of the Republic.

**Article 189**

The High Court of Justice is competent to judge the President of the Republic for high treason, [and] the President of the Transitional National Assembly, the President of the Transitional Senate and the Vice-President of the Republic for crimes and misdemeanours committed in the course of their mandate.

The instruction and the judgment take place before any other affaire.

The decisions of the High Court of Justice are not susceptible to any appeal, except by pardon or revision.

**Article 190**

The President of the Republic in the event of impeachment by the Transitional National Assembly and the Transitional Senate meeting in Congress, the President of the Transitional National Assembly, the President of the Transitional Senate and the Vice-President of the Transitional Republic in case of impeachment before the High Court of Justice, shall be suspended from their functions.

In the case of conviction, they are relieved of their functions.

**Article 191**

An organic law establishes the rules of organisation and of functioning of the High Court of Justice as well as the procedure applicable before it.

## TITLE IX: DEFENCE AND SECURITY FORCES

### Article 192

The Defence and Security Forces are subordinated to the civilian authority within the respect for the Transitional Constitution, for the law and for the regulations.

The Defence and Security Forces are composed of professionals and are nonpartisan.

### Article 193

The Defence and Security Forces are constituted of:

1. The force of national defence of Burundi, which is an armed body designed, organised and trained to defend the integrity of the territory, national independence and sovereignty;
2. The National Police of Burundi, which is a body designed, organised and trained for the maintenance of security and order within the country;
3. The national intelligence service, which is a body designed, organised and trained to seek, centralise and exploit any information likely to contribute to the protection of the State, its institutions and its international relations, and Prosperity of its economy.

### Article 194

The defence and security forces must reflect the determination of Burundians, as individuals and as a nation, to live equally, in peace and harmony, and to be free from fear.

The State has a duty to put in place a proactive defence and security policy that reinforces the unity and cohesion of the Burundian people, in particular by ensuring the necessary ethnic and regional balances.

### Article 195

The Defence and of Security Forces are designed and organised in accordance with the transitional Constitution. Their members must to act in conformity with the Transitional Constitution and the laws, regulations, as well as with the international conventions and agreements of which Burundi is a part.

### Article 196

The following principles guide the design, organisation and use of defence and security forces:

(1) the State alone shall create a body of defence and security. Apart from the defence and security forces established in accordance with the provisions of this Transitional Constitution, no other armed organisation may be created or raised;

(2) the maintenance of national security and defence is subject to the authority of the Government and to the control of the Transitional Parliament. The defence and security forces must be accountable and work with the utmost transparency;

(3) within the limits determined by the transitional Constitution and the laws, only the President of the Republic may authorise the use of armed force:

(a) in the defence of the State;

(b) the restoration of order and public safety;

(c) the fulfilment of international obligations and commitments;

(4) When the national defence force is used in one of the cases mentioned in the above paragraph, the President of the Republic shall consult the Vice-President of the Republic, the Bureaux of the Transitional National Assembly and the Transitional Senate and the Council of National Security; and shall inform the Parliament in detail on:

- (a) the reason(s) for the use of the national defence force;
- (b) every place where the force is deployed;
- (c) the period for which the force is deployed.

(5) If the Parliament is not in session, the President of the Republic shall convene it in extraordinary session within seven days after the use of that force;

- (6) the defence and security forces and their members may not, in the exercise of their functions,
- prejudice the interests of a political party which, under the terms of the Transitional Constitution, is legal;
  - express political preferences;
  - favour the interests of a political party in a partisan manner;
  - being a member of a political party or political association;
  - participate in political activities or events.

#### **Article 197**

The Corps of Defence and of Security are open without discrimination to all Burundian citizens who desire to be a part of them. Their organisation is based on volunteering and on professionalism. During a period to be determined by the Senate, the Corps of Defence and of Security may not include more than 50% of the members belonging to a particular ethnic group, taking into account the necessity to assure the ethnic equilibrium and to prevent the acts of genocide and the coups d'Etat.

#### **Article 198**

The correction of the disequilibrium within the Corps of Defence and of Security is dealt with progressively in a spirit of reconciliation and trust in order to secure all Burundians.

The correction of imbalances is achieved during the transitional period by the integration, within the defence and security corps, of combatants of political parties and movements from the signing of the global and permanent ceasefire by all the belligerents, and by the recruitment of other Burundian citizens.

#### **Article 199**

The Corps of Defence and Security benefit from a technical, moral and civic training. This training focuses notably on the culture of peace, the conduct in a pluralist democratic political system, human rights and humanitarian law.

The Defence and Security forces will develop a non-discriminatory, non-ethnic, and non-sexist culture within their organisations.

#### **Article 200**

The Code of the organisation and jurisdiction of military Courts is amended so that no civilian can be subject to the code of military justice or be tried by a military court.

#### **Article 201**

An organic law specifies in detail the missions, the organisation, the instruction, the conditions of service and the functioning of the defence and security corps.

## TITLE XII: TERRITORIAL COLLECTIVITIES

### Article 202

An organic law creates the commune as well as other territorial collectivities [regional authority] of the Republic. The law determines the fundamental principles of their status, of their organisation, of their competences, of their resources as well as the conditions in which these local collectivities are administrated.

### Article 203

The commune is a decentralised administrative entity. It is subdivided into entities specified by an organic law.

The commune is administrated by the Communal Council and by the Communal Administrator.

The communal administrator is appointed by the President of the Republic in consultation with the Vice-President of the Republic in consultation with the Vice-President of the Republic and after confirmation by the Transitional Senate.

The municipal administrator is a civilian, native or a national of the territorial entity he is responsible for administering.

However, in view of the security situation prevailing in a given territorial entity and duly assessed by the President and the Vice-President of the Republic, a member of the active defence and security forces may be appointed to the position of commune administrator according to the procedure laid down in the third paragraph [of this article].

### Article 204

The State shall ensure the harmonious and balanced development of all municipalities in the country on the basis of national solidarity.

## TITLE XI: ELECTIONS DURING THE TRANSITION

### Article 205

Local, legislative and presidential elections are organised, in this order, in the eighteenth month of the transitional period, in accordance with the electoral law.

### Article 206

The electoral law is adopted by a two-thirds majority of the Transitional National Assembly and the Transitional Senate.

The members of the Independent National Electoral Commission shall be approved by the Transitional Senate by a three-quarters majority.

## TITLE XII: NATIONAL COUNCILS

### Article 207

With a view to ensuring a wide participation of citizens in the management of public affairs, the state is putting in place the following national councils:

- The National Council for National Unity and Reconciliation;
- The National Observatory for the Prevention and Eradication of Genocide, War Crimes and Crimes against Humanity;
- The National Security Council;
- The Economic and Social Council;
- The National Council of Communication.

The Transitional Government of National Unity guarantees to these councils the means needed for them to function.

### 1. THE NATIONAL COUNCIL FOR NATIONAL UNITY AND RECONCILIATION

### Article 208

The National Council for National Unity and Reconciliation is a consultative organ given the charge of notably:

- conducting reflections and giving advice on all essential issues related to unity, to peace and to national reconciliation, in particular those relating to the prioritising missions of the institutions;
- following regularly the evolution of the Burundian society from the point of view of the issue of the national unity and of reconciliation;
- producing periodically a report on the status of the national unity and of the reconciliation and bring it to the cognisance of the nation;
- emitting proposals in view of the improvement of the situation of the national unity and of the reconciliation in the country;
- conceiving and initiating the necessary actions in view of rehabilitating the institution of Ubushyamba, to make of it an instrument of peace and of social cohesion;
- emitting opinions and proposals on other matters of interest to the nation.

The National Council for National Unity and Reconciliation is consulted by the President of the Republic, the Transitional Government of National Unity, the Transitional National Assembly and the Transitional Senate.

On its own initiative, it may equally emit opinions and render them public.

### Article 209

The National Council for National Unity and Reconciliation is composed of notable persons recognised for their moral integrity and the interest they bear for the life of the nation and more particularly to its unity. The members of the National Council for National Unity and Reconciliation are appointed by the President of the Republic in concert with the Vice-President of the Republic.

### Article 210

The members of the National Council for National Unity and Reconciliation must take an oath to defend the national unity and to promote reconciliation.

#### **Article 211**

The National Council for National Unity and Reconciliation produces an annual report that it submits to the President of the Republic, to the Transitional Government of National Unity, to the Transitional National Assembly and to the Transitional Senate.

#### **Article 212**

An organic law specifies the composition and establishes the organisation and the functioning of the National Council for National Unity and Reconciliation.

## **2. OF THE NATIONAL OBSERVATORY FOR THE PREVENTION AND THE ERADICATION OF GENOCIDE, OF WAR CRIMES AND OF CRIMES AGAINST HUMANITY**

#### **Article 213**

The National Observatory for the prevention and the eradication of genocide, of war crimes and of crimes against humanity is a consultative organ given the charge of notably:

- following regularly the evolution of the Burundian society from the point of view of the issue of genocide, of war crimes and of other crimes against humanity;
- preventing and eradicating the acts of genocide, war crimes and other crimes against humanity;
- suggesting the measures to effectively fight against the impunity of crimes;
- promoting the creation of a regional observatory;
- promoting a national inter-ethnic front of resistance against genocide, war crimes and other crimes against humanity, as well as against globalisation and collective culpability;
- promoting legislation against genocide, war crimes and the other crimes against humanity, and following the strict respect of it;
- proposing policies and measures for the rehabilitation of the victims of genocide, of war crimes and of other crimes against humanity;
- contributing to the implementation of a vast program of sensitisation and education to peace, to unity and to national reconciliation.

#### **Article 214**

The National Observatory for the prevention and the eradication of genocide, of war crimes and of crimes against humanity produces an annual report that it submits to the President of the Republic, to the National Government of National Unity, to the Transitional National Assembly and to the Transitional Senate.

#### **Article 215**

An organic law determines the missions, the composition, the organisation and the functioning of the National Observatory for the prevention and the eradication of genocide, of war crimes and of crimes against humanity.

### 3. THE NATIONAL COUNCIL OF SECURITY

#### Article 216

The National Council of Security is a consultative organ given the charge of assisting the President of the Republic and the Government in the elaboration of the policy in [the] matters of security, in the following of the situation of the country in [the] matters of security and in the elaboration of the strategies of defence, of security and of maintenance of the order in the case of crisis.

The Council follows attentively the status of the national unity and cohesion within the Defence and of Security Forces.

The Council may be consulted on any other issue in relation to the security of the country. The Council produces an annual report that it submits to the President of the Republic, to the Transitional Government of National Unity, to the Transitional National Assembly and to the Transitional Senate.

#### Article 217

The members of the National Council of Security are appointed by the President of the Republic in concert with the Vice-Presidents of the Republic.

#### Article 218

An organic law determines the missions, the composition, the organisation and the functioning of the National Council of Security.

### 4. OF THE ECONOMICAL AND SOCIAL COUNCIL

#### Article 219

The Economical and Social Council is a consultative organ having competence in all the aspects of the economical and social development of the country.

It is obligatorily consulted on any project of plan of development and on any project of regional or sub-regional integration.

The Economical and Social Council can, on its own initiative, under the form of recommendations, draw the attention of the Transitional National Assembly, of the Transitional Senate or of the Transitional Government of National Unity to the reforms of economical and social order that seem conform or contrary to the general interest.

It gives, equally, its opinion on all the issues brought to its examination by the President of the Republic, the Government, the National Assembly, the Senate or by another public institution.

#### Article 220

The Economical and Social Council is composed of members chosen for their competence in the different socio-professional sectors of the country.

The members of the Economical and Social Council are appointed by the President of the Republic in concert with the Vice-President of the Republic.

**Article 221**

The Economical and Social Council produces an annual report that it addresses to the President of the Republic, to the Transitional Government of National Unity, to the Transitional National Assembly and to the Transitional Senate.

**Article 222**

An organic law determines the missions, the composition, the organisation and the functioning of the Economical and Social Council.

**5. OF THE NATIONAL COUNCIL OF COMMUNICATION**

**Article 223**

The National Council of Communication sees to the freedom of audio-visual and written communication within the respect for the law, for public order and for morality.

The National Council of Communication has, to this effect, a power of decision notably in [the] matter of the respect for and the promotion of the freedom of the press and the equitable access of the diverse political, social, economical and cultural opinions to the public media.

The Council of Communication plays equally a consultative role vis-a-vis the Government in [the] matter of communication.

**Article 224**

The National Council of Communication is composed of members chosen in the sector of communication and in the diverse sectors of users of the media, on the base of the interest that they bear for social communication, for the freedom of the press, of expression and of opinion.

**Article 225**

The members of the National Council of Communication are appointed by the President of the Republic in concert with the Vice-President of the Republic.

**Article 226**

The National Council of Communication produces an annual report that it submits to the President of the Republic, to the Transitional Government of National, to the Transitional National Assembly and to the Transitional Senate.

**Article 227**

An organic law determines the missions, the composition, organisation and functioning of the National Council of Communication.

## TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS

### 1. The International Commission of Judicial Inquiry

#### Article 228

The Transitional Government of National Unity is required to request the United Nations to set up an International Commission of Judicial Inquiry assigned to inquire into the acts of genocide, war crimes and other crimes against humanity, committed in Burundi from independence to the date of the signing of the Agreement, and to report on this to the Security Council of the UN. The tasks of the International Commission of Judicial Inquiry are the following:

- To investigate and establish the facts covering the period from independence to the date of the signing of the Agreement;
- To describe these facts;
- To establish who was responsible for them;
- To submit this report to the Security Council of the United Nations.

The government requests the Security Council of the United Nations to establish an international criminal tribunal assigned to judge and punish the guilty, in the event of the report establishing the existence of acts of genocide, war crimes and other crimes against humanity.

### 2. National Commission for Truth and Reconciliation

#### Article 229

The National Commission for Truth and Reconciliation is tasked with investigating human rights violations, promoting reconciliation and treating claims resulting from practices relating to the Burundian conflict. The Commission is also given the task of clarifying the history of Burundi in order to enlighten the Burundian people as to their past.

#### Article 230

At the end of the investigation, the Commission will propose to the President of the Republic, the government, the Transitional National Assembly, the Transitional Senate and the National Council for National Unity and Reconciliation, measures likely to promote reconciliation and forgiveness.

#### Article 231

The members of the Commission are appointed by the President of the Republic, in consultation with the Vice-President of the Republic, the committees of the Transitional National Assembly and of the Transitional Senate. The members of the Commission are chosen for their probity, their integrity and their capacity to transcend divisions of any nature. They come notably from associations of civil society, political parties, religious denominations and women's organisations.

#### Article 232

The Commission has a mandate of two years. At the end of its mandate, the Commission will draw up a report addressed to the President of the Republic, the Transitional Government of National Unity, the Transitional National Assembly, the Transitional Senate and the National Council for National Unity and Reconciliation. The government can, if deemed necessary, extend the duration of the Commission's mandate by one year.

### **Article 233**

An organic law determines the organisation, operation and modes of appointing members of the National Commission for Truth and Reconciliation.

## **3. The National Commission for the Rehabilitation of Victims [Sinistrés]**

### **Article 234**

The National Commission for the Rehabilitation of Victims [Sinistrés] is tasked with preparing and organising the repatriation of refugees as well as the reinstatement and reinsertion of victims. It must ensure the equity, transparency and common sense of all its decisions.

### **Article 235**

Members of the Commission are emanating from participating parties and other sectors of national life.

### **Article 236**

The members of the Commission shall be appointed by the President of the Republic in consultation with the Vice-President of the Republic. They are chosen for their morals, integrity and competence.

The President and Vice-President of the Commission shall be elected by the members of the Commission. They cannot belong to the same ethnic group or to the same political family.

### **Article 237**

The Commission benefits from administrative and financial autonomy.

### **Article 238**

The Commission has the most extensive powers to deal with land and other rights issues in the rehabilitation of victims [sinistrés], returnees and exiles.

The Commission's decisions are guided by the need to reconcile the objectives of respect of the law, equity, reconciliation and social peace.

### **Article 239**

The Commission shall send an annual report on its activities to the President of the Republic, the Transitional Government of National Unity, the Transitional National Assembly and the Transitional Senate.

### **Article 240**

An organic law determines the missions, competences, organisation and functioning of the National Rehabilitation Commission of Victims [sinistrés].

## **4. The Monitoring Commission for Implementation of the Agreement**

### **Article 241**

The Monitoring Commission for Implementation of the Agreement must carry out the following functions:

- (a) ensure the monitoring, the control, the supervision, the coordination and the effective implementation of all the provisions of the Agreement;

- (b) see that the timetable for implementation is respected;
- (c) that the Agreement is correctly interpreted;
- (d) reconcile different points of view;
- (e) arbitrate and resolve all disagreement that can arise between the signatories;
- (f) direct and coordinate the activities of all the commissions and sub-commissions created in application of the different protocols intended to implement the Agreement;
- (g) help and support the government in the diplomatic mobilisation of financial, material, technical and human resources needed to implement the Agreement;
- (h) decide on the admission of other participating parties, in accordance with article 76, paragraph 2;
- (i) ensure that measures relating to the prevention, repression and eradication of acts of genocide, war crimes and other crimes against humanity are carried out.

#### **Article 242**

The Monitoring Commission for Implementation of the Agreement may communicate to the Transitional Government of National Unity any information relating to governmental activities, any information relevant to managing public affairs and any information relating to or necessary for the monitoring, control or implementation of the Agreement.

#### **Article 243**

The Burundian members of the Monitoring Commission for Implementation of the Agreement may not be prosecuted, sought, detained or tried for opinions or votes issued during the sessions.

Except in the case of *flagrante delicto*, the Burundian members of the Monitoring Commission of the implementation of the agreement may be prosecuted during sessions only with the authorisation of the Burundian members of its executive board.

Burundian members of the Monitoring Commission of the implementation of the agreement may be arrested out-of-session only with the authorisation of the Burundian members of its Executive board, except in cases of *flagrante delicto*, prosecutions already authorised or of final conviction.

The Burundian members of the executive board shall give a ruling at a meeting chaired by the oldest member.

#### **Article 244**

The status of the members of the Commission for the Implementation of the Agreement shall be determined by regulation.

#### **Article 245**

The mandate of the Monitoring Committee for the implementation of the Agreement expires with the end of the transitional period.

#### **TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS**

##### **Article 246**

The President of the Republic has the high direction of international negotiations. He signs and ratifies international treaties and agreements.

##### **Article 247**

The treaties of peace and the treaties of commerce, the treaties relating to international organisation, the treaties which engage the finances of the state, those that modify the provisions of legislative nature as well as those relating to the state of persons, may be ratified only by virtue of a law.

##### **Article 248**

The Republic of Burundi may create with other States international organisations of common administration and coordination and of free cooperation. It may conclude agreements of association or of community with other States.

##### **Article 249**

The treaties take effect only after having been regularly ratified and under reserve of their application by the other party in the case of bilateral treaties[,] and the realisation of the conditions for the entry into force specified by them for the multilateral treaties.

##### **Article 250**

Agreements for the installation of foreign military bases on the national territory as well as those permitting the storage of toxic wastes and other materials which may cause serious damage to the environment are prohibited.

##### **Article 251**

During the transition period, the Transitional Government of National Unity will call upon an international peacekeeping force within the framework of the Arusha Agreement for Peace and Reconciliation in Burundi and with the prior agreement of The Transitional National Assembly and the Transitional Senate.

The implementation of the above paragraph is conditional upon the signature of a ceasefire.

##### **Article 252**

The Defence and Security Forces may participate in international operations for the maintenance of peace in the world. No Burundian force may be deployed exterior to the national frontiers without prior authorisation of the President of the Republic after consultation with the Vice-President of the Republic and with the National Council of Security. The Transitional National Assembly and the Transitional Senate must be informed within a time period not exceeding seven days.

##### **Article 253**

Any cession, any exchange, any adjunction of territory is only valid with the consent of the Burundian People called to pronounce itself by referendum.

**Article 254**

When questions are addressed to the Constitutional Court by the President of the Republic, the President of the Transitional National Assembly, the President of the Transitional Senate, a quarter of the members of the Transitional National Assembly or of the Senate, has declared that an international engagement contains a clause contrary to the Transitional Constitution, the authorisation to ratify this engagement may only intervene except after amendment or revision of the Transitional Constitution.

**TITLE XV: REVISION OF THE TRANSITIONAL CONSTITUTION**

**Article 255**

The initiative for the revision of the Transitional Constitution belongs concurrently to the President of the Republic, after consultation with the government, the Transitional National Assembly, and the Transitional Senate voted by the absolute majority of the members which compose it.

The draft or proposed amendment to the transitional Constitution shall be adopted by a majority of nine-tenths of the members of the Transitional National Assembly and the Transitional Senate.

**Article 256**

No revision procedure may be accepted if it undermines the national unity and cohesion of the Burundian people, the secularity of the state, the integrity of the territory of the Republic, and if it is contrary to the contents of the Arusha Agreement for Peace and Reconciliation in Burundi.

**TITLE XVI: TRANSITIONAL AND FINAL DISPOSITIONS**

**Article 257**

After its adoption by the Transitional National Assembly in office, the present Transitional Constitution is promulgated by the President of the Republic.

**Article 258**

As soon as transitional constitution comes into force, the President of the Republic and the Vice President of the Republic shall take up their duties immediately after taking the oath.

**Article 259**

Pending the establishment of the National Transitional Assembly in accordance with Article 133, the Transitional National Assembly shall remain in office.

**Article 260**

Pending the appointment of the members of the Constitutional Court in accordance with Article 181, the members of the existing Constitutional Court shall remain in office.

**Article 261**

Pending the establishment of the Transitional Senate, the President of the Republic and the Vice-President of the Republic may appoint to the high civilian and military posts when urgency is required.

**Article 262**

Without prejudice to Articles 67, 69 and 70, political parties and movements signatory to the Arusha Agreement for Peace and Reconciliation in Burundi whose name and status does not meet the criterion set out in Article 67 (3) have a period of nine months after the start of the transitional period to make the necessary amendments.

**Article 263**

Pending the improvement of the security situation in the country, political parties and movements are not allowed to organise demonstrations, rallies and public meetings.

Only meetings of the governing bodies at the hill, communal, provincial and national levels are authorised.

**Article 264**

In the measure that they are not contrary to the Constitution, the legislative and regulatory provisions laid down in the Arusha Peace and Reconciliation Agreement in Burundi, the legislative and regulatory provisions prior to its entry into force, remain in application until their modification or their abrogation.

**Article 265**

This transitional Constitution shall remain in force until the promulgation of the post-transition Constitution.

**Article 266**

The Constitutional Act of Transition of the Republic of Burundi promulgated on 6 June 1998 is hereby repealed.

The present Transitional Constitution of the Republic of Burundi enters into force on the day of its promulgation.