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# CONSTITUTION OF THE UNION OF THE COMOROS DECEMBER 23, 2001

## **Preamble**

The Comorian people formally affirm their will to: - draw upon Islam as the continuing inspiration for the principles and rules which govern the union, - ensure the continuation of a common destiny between Comoriens, - build new institutions founded on the Rule of Law, democracy and good governance and ensure a sharing of power between the Union and the islands that compose it, in order to enable them to materialize their legitimate aspirations, administrate, manage their own affairs freely and without interference and to promote their socio-economic development, - demonstrate their commitment to the principles and fundamental human rights as they are defined in full by the Charter of the United Nations, the organization of African Unity, the covenant of the League of Arab States, the United Nations Universal Declaration of Human Rights and the African Charter of Human and Peoples' Rights, and international conventions including those related to children's and women's rights.

**Proclamation:** - solidarity between the union and the islands and between the islands themselves, - equality of islands in rights and in duties, - the equality of all in rights and duties, without distinction of sex, origin, race, religion or belief, - the equality of all before the law and the right of every individual to their own defense, - freedom and security of every individual under the sole condition that they do not perform any act likely to harm others, - the right to pluralistic information and the freedom of the press, - freedoms of expression, assembly, association and freedom of association with respect to morals and public order, - freedom of

enterprise and security of capital and investments, - inviolability of the home under conditions prescribed by law, - the guarantee of property except for public use or need established under the law and subject to fair compensation, - the right to health and education for all, - the right of children and the youth to be protected by the public authorities against any form of neglect, exploitation and violence, - the right to a healthy environment and the duty of all to safeguard the environment.

**This preamble shall be integrated as part of the Constitution.**

## **Title I**

### The Union of Comoros

**Article 1.** The Union of Comoros is a republic, composed of the autonomous islands of Mwali (Moheli), Maore (Mayotte), Ndzuwani (Anjouan), N'gazidja (Grand Comore). The national flag is yellow, white, red, blue with a white crescent turned to the right and 4 white stars aligned from one end of the crescent to the other in an isosceles triangle with a green background. The national anthem is: Umodja Wa Massiwa. The motto of the Union is: Unity - Solidarity - Development. The law of the Union determines the seal of the Union. The official languages are Shikomori, the national language, French and Arabic.

**Article 2.** An organic law determines which islands house the institutions of the Union.

**Article 3.** Sovereignty belongs to the people who exercise it, in each island and across the Union, through their elected representatives or by way of referendum. No group or individual can claim sole exercise.

**Article 4.** Under conditions determined by law, suffrage is universal, equal and secret. It may be direct or indirect. Voters are, under the

conditions determined by law, all Comorian men and women enjoying their civil and political rights.

**Article 5.** Comorian nationality is acquired, retained and lost in accordance with the law. No Comorian by birth may be deprived of his nationality.

**Article 6.** Political parties and groups contribute to the expression of suffrage, and also to the civic and political rights of the people. They are formed and freely exercise their activities in accordance with the law of the Union. They must respect the national unity, sovereignty and inviolability of the borders of Comoros, as internationally recognized, and the principles of democracy.

## **Title II**

The Respective Responsibilities (jurisdictions) of the Union and the Islands

**Article 7.** While respecting the unity of the Union and the inviolability of its borders as internationally recognized, each island freely administrates and manages its own affairs. Each island freely establishes its fundamental law in respect of the constitution of the Union. The Comorian people have the same rights, the same freedoms and the same obligations in any part of the Union. No authority may adopt measures which directly or indirectly hinder the freedom of movement and establishment of persons and the free movement of goods throughout the territory of the Union. The islands include an elected assembly and executive and regional authorities with an elected legislative body and executive body.

**Article 8.** The right of the Union supersedes the right of the islands; it is enforceable throughout the territory of the Comoros.

**Article 9.** Relevant within the exclusive jurisdiction of the Union are the following matters: religion, nationality, currency, foreign affairs, national defense, national symbols. An organic law determines as necessary the conditions for application and modality of implementation of exclusive responsibilities. In matters of shared jurisdiction between the Union and the islands, the islands have the

authority to act for as long and as far as the Union does not exercise its right to act. The Union interferes only if it can act more efficiently than the islands because: a) the results of a question could affect the interests of other islands; b) an issue cannot be settled by only one island; c) the safeguarding of the legal, economic and social unity of the Union is at play. In this case the islands have, according to law, the ability to take the necessary measures for the enforcement of the fundamental principles and rules defined by the Union or for the attainment of the objectives set forth by the Union. An organic law shall determine, as necessary, the matters relevant to the shared jurisdiction between the Union and the islands and the terms of this exercise. Within the exclusive jurisdiction of the islands: matters that are not under the exclusive jurisdiction of the Union or shared responsibility between the islands and the Union.

**Article 10.** Peace treaties, trade treaties, treaties or agreements relating to international affairs, those that engage the finances of the Union, those which amend provisions of legislative nature, those relating to the status of persons, those that involve the cession, exchange or addition of territory, may only be ratified or approved by a law. They do not take effect until the law has been ratified or approved. If the Constitutional Court, on application by the President of the Union, by the President of the Assembly of the Union or by the insular Chief Executives, declares that an international agreement contains a clause contrary to the Constitution, the authorization to ratify or approve it cannot intervene until after a revision of the Constitution. Treaties or agreements duly approved or ratified have in their publication a higher authority than the laws of the Union or the islands - subject, for each agreement or treaty, to its implementation by the other party.

**Article 11.** The islands enjoy financial autonomy. They develop and manage their budgets freely under the applicable principles in the area of public finance management. An organic law shall determine the share of government revenue respectively before returning to the Union and the islands. This distribution is stipulated in the framework of the annual budget law of the Union. Under the

conditions prescribed by the organic law, the islands may create for the benefit of their budget dues and taxes that are not provided for by the law of the Union.

### **Title III**

#### **The Institutions of the Union**

##### **1. Executive Power**

**Article 12.** The president of the Union is the national symbol of the Union. He is the guarantor of the inviolability of the borders as internationally recognized, and the sovereignty of the Union. He is the arbiter and moderator of the regular operations of institutions. He ensures the highest representation of the Union in international relations. He is the guarantor of respect for treaties and international agreements. The President of the Union determines and conducts foreign policy. He appoints and accredits ambassadors and envoys to foreign powers; foreign ambassadors and envoys are accredited by him. He negotiates and ratifies treaties. The President of the Union is the head of government. As such, he determines and conducts the policy of the Union. He performs the administration of the Union; he exercises regulatory power. He appoints civil servants and military personnel. The President of the Union is the head of the military. He is responsible for external defense. The President of the Union has the right to pardon.

**Article 13.** The presidency rotates between the islands. The President and Vice Presidents are elected directly by a majority of universal suffrage with a ballot for a term of four years renewable in accordance with the rotation among the islands. A primary election is organized on the island which holds the presidency and only the three candidates receiving the greatest number of votes can present themselves for the presidential election. Before assuming office the President of the Union and the Vice Presidents take the following oath before the Constitutional Court in Comorian: "I swear to Allah, the most merciful, to faithfully and honestly fulfill my duties, to act only in the general interest and in accordance with the

Constitution". The conditions of eligibility and the mode of application of this article shall be fixed by organic law.

**Article 14.** In case of vacancy of the Presidency of the Union for any reason whatsoever or permanent incapacity duly ascertained by the Constitutional Court on application of the government, movement to elect the new President of the Union must occur within a maximum period of sixty days from the declaration of the vacancy or the final determination of incapacity. The duties of the President of the Union are temporarily exercised by the oldest member of the Vice Presidents. In case of vacancy or permanent incapacity of a Vice President, the procedure for his replacement will be conducted by the assembly of his island of origin on proposal by the President of the Union. In case of absence or temporary incapacity the President of the Union is to be supplanted by one of his Vice Presidents.

**Article 15.** The offices of the President of the Union and Vice President are incompatible with the exercise of any other elective office, any other political office, any public employment, public or private professional activities or any function in a governing body or political party or group. However, the Vice Presidents of the Union are in charge of a ministerial department. An organic law shall determine the matters for which the countersignature of the Vice Presidents is required.

**Article 16.** The President of the Union, assisted by two Vice Presidents, appoints the ministers of the Union and determines their functions. The government of the Union is composed so as to ensure a fair and equitable representation of the islands. The office of Minister is incompatible with the exercise of any nationally elected office except those within the territorial communities, of any office of professional representation and any public employment or any professional activity.

**Article 17.** The President of the Union shall promulgate the law of the Union within fifteen days after transmission to the Government of the definitive adoption of the law ; and may, before the expiry of this period, ask the Assembly of the Union, which decided by an

absolute majority, a new deliberation of the law or some of its articles. This new deliberation may be refused.

**Article 18.** The President of the Union shall prepare an annual report on the state of the Union for the attention of the Assembly of the Union, the Constitutional Court and the Assemblies and executive bodies of the islands.

## **2. Legislative Power**

**Article 19.** The Assembly of the Union is the legislative body of the Union. It enacts laws and adopts the budget. The Assembly of the Union is composed of thirty-three members elected for a term of five years.

**Article 20.** The Assembly of the Union is composed of representatives designated by the Assemblies of the islands, with five members per island and eighteen representatives elected by direct universal suffrage under a two round, plurality system. The electoral law specifies the procedures for voting and the electoral districts whose number cannot be less than two per island. The President of the Assembly of the Union is elected for the term of the legislature. An organic law determines the conditions and terms of the elections of members of the Assembly and its President, the rules of ineligibility and incompatibility, as well as compensation of members. It specifies the conditions under which members are elected while ensuring, in the event of a vacancy in a seat, the replacement of members to the general or partial renewal of the Assembly of the Union. The Assembly of the Union shall adopt its rules of procedure by a majority of two thirds of its members. Before the implementation thereof, the Constitutional Court decides on its conformity to the Constitution.

**Article 21.** No members of the Assembly of the Union can be prosecuted, investigated, arrested, detained or judged on account of opinions expressed or votes cast by him in the exercise of his duties. No member of the Assembly can, for the durations of the sessions, be prosecuted or arrested in criminal or correctional matters, without the consent of the Assembly, except in cases of



flagrant offenses. No member of the Assembly may, while out of session, be arrested without the authorization of the Office of the Assembly, except in cases of flagrant offenses, authorized prosecution or final conviction.

**Article 22.** Any imperative mandate is null. Assembly members' right to vote is personal. The law of the Union may, in exceptional cases, authorize the delegation of a vote to another member. In these cases no person may receive delegation for more than one term.

**Article 23.** The Assembly of the Union shall meet in full in two regular sessions each year, length between sessions may not exceed six months. The schedule of sessions is fixed in the manner determined by the Rules of Procedure of the Assembly of the Union. The Assembly meets for special sessions at the request of the President of the Union or the absolute majority of Assembly members for a predetermined agenda. The special session shall not exceed fifteen days after its gathering.

**Article 24.** Meetings of the Assembly are public, except for cases covered by the Rules of Procedure of the Assembly.

**Article 25.** Initiation of legislation belongs jointly to the President of the Union and the Assembly members. Bills are deliberated in the Council of Ministers and deposited in the office of the Assembly. Assembly members and the government have the right of amendment. Legislative proposals and amendments from members of the Assembly are not admissible where their adoption would consequently decrease public resources of the Union or establish or increase a public office of the Union. Legislative projects and proposals are, at the request of the Government or the Assembly of the Union, sent for examination by commissions established by the Rules of Procedure of the Assembly or specially established for this purpose.

**Article 26.** Laws which the Constitution confers the character of natural laws is adopted and amended under the following conditions. The proposed law or bill is submitted to the deliberation

and vote of the Assembly until the expiration of a period of fifteen days after its submission. Natural laws are passed by a two-thirds majority of the members of the Assembly. At the request of all the Assembly members of an island, the law is subject to a second reading. Laws are promulgated after declaration by the Constitutional Court of their conformity to the Constitution.

**Article 27.** The Assembly votes on budget laws by a two-thirds majority. If the Assembly has not reached a decision within a period of sixty days, the provisions of the bill may be enforced by order.

### **3. Judicial Power**

**Article 28.** Judicial powers are independent of the legislative powers and the executive powers. Judges shall not, in the exercises of their duties, have the authority of the law. Judges are not removable. The President of the Union is the guarantor of the independence of Justice. He is assisted by the Superior Council of the Magistracy. An organic law determines the organization of justice in the Union and the islands.

**Article 29.** The Supreme Court is the highest jurisdiction of the Union's judicial, administrative and accounting matters. The decisions of the Supreme Court are not subject to appeal and binding on the executive power, legislative power as well as all the jurisdictions of the Union territory. An organic law shall determine the composition and the operating rules of the Supreme Court.

**Article 30.** In cases of high treason the President, the Vice President and members of the Government of the Union are brought before the Supreme Court sitting as High Court of Justice. An organic law shall determine the composition of the High Court, the rules of operation and the applicable procedure before it.

### **Title IV**

#### **The Constitutional Court**

**Article 31.** The Constitutional Court is the judge of the constitutionality of the laws of the Union and the islands. It shall

ensure the regularity of electoral operations both in the islands and across the Union, including matters of referendum; it is the judge of electoral disputes. It guarantees the fundamental rights of the individual and public freedoms. The Constitutional Court is in charge of the distribution of responsibilities between the Union and the islands. It is in charge of ruling on conflicts of jurisdiction between two or more institutions of the Union, between the Union and the islands and between the islands themselves. Any citizen may refer to the Constitutional Court on the constitutionality of laws, either directly or through the proceedings of the plea of unconstitutionality invoked in a case which concerns a court of the Union or the islands. The plea must carry on until the decision of the Constitutional Court, which must take place within thirty days.

**Article 32.** The President of the Union, the Vice Presidents of the Union, the President of the Assembly and the heads of the executive bodies of the islands each appoint one member of the Constitutional Court.

**Article 33.** Members of the Constitutional Court should be of great morality and probity as well as a recognized competence in the legal, administrative, economic or social fields. They must demonstrate a minimum professional experience of fifteen years. They are appointed for a renewable term of six years. The President of the Constitutional Court is appointed by his peers for a renewable term of six years. Members of the Constitutional Court are irremovable. Except in cases of flagrant offenses, they cannot be arrested and prosecuted without the authority of the Highest Court. The duties of the members of the Constitutional Court are incompatible with the duties of members of institutions of the Union or the islands and with any public employment or professional activity.

**Article 34.** An organic law determines the rules of organization and functioning of the Constitutional Court, the proceedings before it, including the terms, timeframes and terms of referral, as well as the status, immunities and disciplinary actions of its members.

**Article 35.** A provision declared unconstitutional is void and cannot be implemented. Decisions of the Constitutional Court are not subject to appeal. They hold authority over all the courts throughout the territory of the Union.

### **Title V**

#### Advisory Bodies

**Article 36.** Advisory bodies may be created by the President of the Union. The advisory bodies including the Council of Ulema and the Economic and Social Council assist, as necessary, the government of the Union and the Executive Heads of the islands in the formulation of decisions related to religious life, the economy and society. An Act of the Union shall determine the manner of consultation and operation of these bodies.

### **Title VI**

#### Revision of the Constitution

**Article 37.** The initiation of the revision of the Constitution belongs jointly to the President of the Union and at least one third of the members of the Assembly of the Union. To be adopted the draft or proposed amendment must be approved by two thirds of the total membership of the Assembly of the Union as well as two thirds of the total membership of the Assemblies of the Islands or by referendum. No review proceedings shall be instituted or continued when interfering with the unity of the territory, the inviolability of internationally recognized borders of the Union or the autonomy of the islands.