

Libya's Draft Constitution

PART II: The Senate

Article 86: Forming the Senate

The Senate shall be composed of seventy-two members chosen by general, free, confidential, and direct poll by way of individual election where no voter shall be less than eighteen years old. Representation in the Senate shall be similar to the election of a constituent body, taking into account the geographic balance in the distribution of seats inside each electoral district.

Article 87: Membership of the Senate

Membership to the Senate shall be the same conditions for membership to the House of Representatives, and the nominee shall not be younger than forty years old on the day of his candidacy.

Article 88: Term of the Senate

The term of the Senate shall last six years beginning from the first day of the first session. A member may not be reelected for more than two election cycles. Elections for the new Senate shall be held during the ninety days prior to the expiration of the Council.

Article 89: Presidency of the Council

The Council shall convene its first sessions under the presidency of the oldest member, and the youngest shall be the rapporteur. During the first sessions, members shall elect the President and two vice presidents. Council elections for presidency of the Senate shall be held every two years.

Article 90: Presence Quorum and Voting

Council sessions shall not be considered valid except with the attendance of the absolute majority of its elected members. Decisions shall be made on matters stipulated in Articles 50 and 51 with the exact majority, not to be less than six members from each electoral district. The Council shall take the necessary measures to set internal rules of procedure ensuring the regulatory attendance of its members.

Article 91: Legislative Competence of the Council

The Senate shall review legislation that has been submitted by the House of Representatives for ratification or amendment in the following areas:

I. State Financial System Law.

- 2. Public Budget Law.**
- 3. Local Government Law.**
- 4. Citizenship and Immigration Law.**
- 5. Referendum and Elections Laws.**
- 6. Natural Resources Law.**
- 7. Emergency and Martial Law.**
- 8. General Amnesty Law.**
- 9. Laws related to State insignia, the State flag, national anthem, and State emblem.**

10. Ratification of international treaties and conventions.

11. Proposed constitutional amendments.

The Senate shall request clarification from the concerned bodies regarding any draft law entering their jurisdiction.

Article 92: Council Jurisdiction on Some Functions

The Senate shall confirm the nominations for the House of Representatives for the following posts:

1. Constitutional Court judges selected by the Legislature.
2. Presidents and members of management of independent constitutional bodies.
3. The Governor of the Central Bank of Libya and his Deputy.

In all situations, the President of the Republic shall nominate the candidates. The Senate shall ratify presidential nominations for ambassadors and state representatives to international organizations adhering to standards of integrity, eligibility, merit, and achievement of the higher interests of the nation within the time period and according to the conditions that the law determines.

Article 93: The Joint Committee

If the two councils differ on a law set forth in Article 52, then a joint committee of equal number from the two chambers shall be formed to resolve the dispute and propose a compromised text to be submitted to the two chambers for their ratification and referral to the President of the Republic for his enactment. If the joint committee is unable to reach a compromise within a period not to exceed thirty days from the day the draft was presented, it shall be sent to the Senate for ratification with a two-thirds majority, then to the House of Representatives for submission to the President of the Republic for his enactment. Should this be impossible to accomplish, the law shall be postponed until the following parliamentary session. The two Councils shall remain in session until the adoption of the Budget Law.

Article 94: Senate Consultation

The House of Representatives shall send draft bills to the Senate for advisory feedback.

The Senate shall return it to the House of Representatives within a period no longer than thirty days from the day it was submitted.

PART III: General Provisions for the Two Chambers

Article 95: Non-restrictive Agency

Members of the Shura Council represent all of the people and may not limit their agency on restriction or condition.

Article 96: Oath of the Shura Council

Every member of the Shura Council must swear in the presence of the Council before he/she begins his/her work the following oath: "In the name of the Almighty God, I swear to be faithful to God and my country, to respect the Constitution and the Law, and to perform my job in faithfulness and truth".

Article 97: Member's Devotion to the Shura Council

One may not be a member of both Councils. The member shall carry out his/her work full-time and keep his/her job in accordance with what the law regulates.

Article 98: Immunity

1. Every member of the Shura Council shall enjoy full liberty to express an opinion within the bounds of the internal procedures of his/her affiliated council. No one shall be permitted to question voting, a stated opinion, or a speech made during council or committee sessions.
2. If either of the two councils indicts any member and there is sufficient and available evidence that he/she committed a crime of high treason, a serious breach of the Constitution, or crimes against confidentiality or honor during the fulfillment of work, then the individual case shall be sent to the Attorney General for the enactment of the necessary legal procedures.
3. In the case of a non-flagrante delicto, urgent criminal proceedings may not be taken without prior permission from the affiliated council and a written request from the Attorney General as are the rights and freedoms of the Member. While the council is not in session, the Presidency of the Council may issue the order and the council shall be notified in the first session. That shall be in accordance with the provisions of the internal procedures of the council.

Article 99: By-laws of the Two Councils

Each of the two councils shall issues bylaws with its internal procedures during the period not to exceed thirty days from the date of the first session. Bylaws shall be published in the official newspaper when each council enacts its internal procedures, taking into consideration the complementarity and consistency with the other council.

Article 100: Expiration of Membership

Membership of the Shura Council shall expire for one of the following reasons:

1. Inability to perform the tasks
2. Resignation
3. Dismissal
4. Losing of one of the conditions for candidature
5. Death

A decision to terminate membership shall be issued by the affiliated council of the member, as stipulated by the bylaws.

Article 101: Vacancy of a Seat in the Shura Council

If one of the members of the Shura Council should vacate his/her seat for any reason enumerated in the previous article before the expiration of his membership by at least six months, the law shall determine how to fill the seat.

Article 102: Headquarters and Provisions of the Shura Council

Headquarters of the Shura Council shall be in the city of Benghazi, and its meetings may be held in any other place inside the country. Both of the two councils shall convene their normal hearings by rule of law in the two regular sessions, each one of them lasting five months.

Session dates shall be one for each of the two chambers. The first session shall start within fourteen days from the date the final results of the elections were announced.

Article 103: Shura Council Meetings

The Shura Council with the majority of the members from both chambers shall meet under the leadership of the president of the Senate. In the event of his/her absence, the president of the House of Representatives shall assume this responsibility. If the president of the House of Representative is absent, the oldest member shall assume leadership. Shura Council meetings will convene under the following circumstances:

1. The opening of the legislative session.
2. The President of the Republic takes his oath.
3. Listening to the speeches of kings and presidents.
4. Listening to an address by the President of the Republic on issues of national importance.
5. Holding advisory sessions for the two chambers.

Article 104: Special Sessions of the Shura Council

The Shura Council may convene for a special session at the request of the President of the Republic or whoever succeeds him according to the provisions of the Constitution, or at the request of one third of the members of each chamber, and in the following cases:

1. Authorization declaring a state of war or the end of war.
2. Institution of a state of emergency or martial law.

3. Consideration of a specific agenda.

The president of the Senate shall head special sessions or his successor. Decisions shall be adopted by the majority of the members present. The number of attendees should be at least half of the members from each council.

Article 105: Public Hearings

The hearings of both councils shall be public. The deliberations shall be documented in the minutes as prescribed by the bylaws for each chamber and published according to what the law determines. Either one or both of the councils may convene for a secret session with the approval of the majority of those present at the request of twelve members or a request of the executive authority.

Article 106: Awarding of Medals and Decorations

Members of the Shura Council shall not be awarded any medals or decorations during their term of membership.

Article 107: Devolution of Competencies of One of the Chambers to the Other

If one of the chambers has dissolved and until the election of a new council, then the tasks entrusted to the dissolved council shall devolve to the standing council according to Articles 103-104.