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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**CONSTITUTION
OF THE FEDERATION
OF BOSNIA AND HERZEGOVINA**

**Consolidated translation
from OHR Legal Department in Sarajevo**

CONSTITUTION

OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

- consolidated translation, with amendments indicated -

- The *Constitution of the Federation of Bosnia and Herzegovina* was adopted by the Constitutional Assembly of the Federation of BiH, at the session held on June 24, 1994. It was published in *Službene Novine Federacije Bosne i Hercegovine* n. 1, 1994.
 - *Amendment I to the Constitution of the Federation of Bosnia and Herzegovina* was passed by the Constitutional Assembly of the Federation of BiH, at the session held on June 24th, 1994. It was also published in *Službene Novine Federacije Bosne i Hercegovine* n. 1, 1994.
 - *Amendments II to XXIV to the Constitution of the Federation of Bosnia and Herzegovina* were passed by the Constitutional Assembly of the Federation of BiH, at its 14th session held on June 5th, 1996. They were published in *Službene Novine Federacije Bosne i Hercegovine* n. 13, 1997.
 - *Amendments XXV and XXVI to the Constitution of the Federation of Bosnia and Herzegovina* were passed according to the procedure in Chapter VIII, finalized on May 8th, 1997. They were also published in *Službene Novine Federacije Bosne i Hercegovine* n. 13, 1997.
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PREAMBLE

Holding that democratic institutions, based on respect for human rights and freedoms best produce harmony among themselves and their communities,

Rejecting the violence of war,

*Wishing to contribute to peace promotion,*¹

Desiring to support individual liberty and to develop a free market,

Guided by the principles of the Charter of the United Nations, the Universal Declaration of Human rights and the *General Framework Agreement on Peace in Bosnia and Herzegovina and its Annexes*.²

*Peoples and citizens of the Federation of Bosnia and Herzegovina, which is a constitutive part of the sovereign state of Bosnia and Herzegovina,*³ determined to ensure full national equality, democratic relations and the highest standards of human rights and freedoms, hereby *pass the Constitution of the Federation of Bosnia and Herzegovina*.⁴

I. ESTABLISHMENT OF THE FEDERATION

Article 1

(1) *Bosniacs and Croats as constituent peoples, along with Others,*⁵ and citizens of Bosnia and Herzegovina from the territories of the Federation of Bosnia and Herzegovina,⁶ in the exercise of their sovereign rights, transform the internal structure of the Federation territories, which has been defined by Annex II to the *General Framework Agreement*, so the Federation of Bosnia and Herzegovina is now composed⁷ of federal units with equal rights and responsibilities.

(2) *The Federation of Bosnia and Herzegovina is one of two entities composing the state of Bosnia and Herzegovina, and has all power, competence and responsibilities which are not within, according to the Constitution of Bosnia and Herzegovina, the exclusive competence of the institutions of Bosnia and Herzegovina.*⁸

Article 2

¹ Am. II, originally "Wishing to promote peace".

² Am. II, originally "the Statement of Principles by the International Conference on the Former Yugoslavia (ICFY) at its session in London, as well as the decisions of the United Nations Security Council relating to the former Yugoslavia; and based on the sovereignty and territorial integrity of the Republic of Bosnia and Herzegovina".

³ Am. II, originally "The peoples and citizens of Bosnia and Herzegovina".

⁴ Am. II, originally "hereby create a Federation".

⁵ Am. III, originally "Bosniacs and Croats, as constituent peoples (along with Others)".

⁶ Am. III, originally "of the Republic of Bosnia and Herzegovina".

⁷ Am. III, originally "of the territories with a majority of Bosniac and Croat population in the Republic of Bosnia and Herzegovina into a Federation, which is composed".

⁸ Am. III, originally "Decisions on the constitutional status of the territories of the Republic of Bosnia and Herzegovina with a majority of Serb population shall be made in the course of negotiations toward a peaceful settlement and at the ICFY".

The Federation consists of federal units (Cantons). The methods and procedures for physically demarking the boundaries between the Cantons shall be established by Federation legislation. The Cantons shall be named solely after the cities which are the seats of the respective Cantonal governments or after regional geographic features.

Article 3

The official name of the Federation is The Federation of Bosnia and Herzegovina.

Article 4

The capital of the Federation shall be Sarajevo.

Article 5

(1) The Federation shall have a flag, an anthem, a coat of arms, and a seal, as well as such symbols as the Legislature may decide in accordance with paragraph (2).

(2) Approval of symbols shall require a majority vote in each House of the Legislature, including in the House of Peoples a majority of the Bosniac Delegates and a majority of the Croat Delegates.

Article 6

(1) The official languages of the Federation shall be the Bosniac language and the Croatian language. The official script will be the Latin alphabet.

(2) Other languages may be used as means of communication and instruction.

(3) Additional languages may be designated as official by a majority vote of each House of the Legislature, including in the House of Peoples a majority of the Bosniac Delegates and a majority of the Croat Delegates.

II. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

A. GENERAL

Article 1

*As the principles, rights and freedoms specified in Article II of the Constitution of Bosnia and Herzegovina are to be applied throughout the territory of Bosnia and Herzegovina, the following provisions govern the Federation.*⁹

⁹ Am. IV, originally "As the principles set out below and the rights and freedoms provided in the instruments listed in the Annex are to be applied throughout the territory of the Republic of Bosnia and Herzegovina, the following provisions govern the Federation".

Article 2

*The Federation will ensure the application of the highest level of internationally recognized rights and freedoms provided in the documents listed in the Annex to the Constitution.*¹⁰ In particular:

(1) All persons within the territory of the Federation shall enjoy the rights:

- (a) To life;
- (b) To liberty, with arrest and detention authorized only by law;
- (c) To equality before the law;
- (d) To freedom from discrimination based on race, color, sex, language, religion or creed, political or other opinions, and national or social origin;
- (e) To fair criminal proceedings;
- (f) To freedom from torture and cruel or inhuman treatment or punishment;
- (g) To privacy;
- (h) To freedom of movement;
- (i) To asylum;
- (j) To protection of the family and of children;
- (k) To property;
- (l) To fundamental freedoms: free speech and press; freedom of thought, conscience, and belief; freedom of religion, including private and public worship; freedom of assembly; freedom of association, including to form and belong to and labor unions and the freedom not to associate; and freedom to work;
- (m) To education;
- (n) To social protection;
- (o) To health;
- (p) To nutrition;
- (q) To shelter; and
- (r) To protection of minorities and vulnerable groups.

(2) All citizens shall enjoy the rights:

- (a) To form and belong to political parties; and
- (b) To political rights: to participate in public affairs; to have equal access to public service; to vote and stand for election.

Article 3

¹⁰ Am. V, originally, "The Federation shall ensure the application of the highest level of internationally recognized rights and freedoms provided in the instruments listed in the Annex".

All refugees and displaced persons have the right to freely return to their homes of origin.

Article 4

All persons shall have the right, *in accordance with Annex VII to the General Framework Agreement for Peace*,¹¹ to have restored to them any property of which *they have been deprived in the course of ethnic cleansing and hostilities since 1991 and rights to be refunded for all their property that cannot be returned.*¹² All statements and obligations¹³ made under duress, particularly those relating to the relinquishment of rights to land or property, *shall be null and void.*¹⁴ *The exercise of the right specified in item I of this Article shall be regulated by Federal legislation.*¹⁵

Article 5

The acquisition and termination of citizenship of *the Federation of BH*¹⁶ shall be regulated by Federation legislation, provided that:

(a) No person shall be deprived of citizenship arbitrarily or in such a way as to leave him or her¹⁷ stateless.

(b) *No persons can be deprived of the Federation citizenship on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*¹⁸

(c) *All citizens of the Federation of Bosnia and Herzegovina, according to the Constitution of Bosnia and Herzegovina, are citizens of Bosnia and Herzegovina, and, according to the citizenship conditions prescribed by the Constitution of Bosnia and Herzegovina, have the right to hold citizenship of another state.*¹⁹

Article 6

All courts, administrative agencies and other governmental organs of the Federation shall apply and conform to the rights and freedoms provided in the instruments listed in the Annex. A Court of Human Rights shall be established in accordance with Article IV.C.16.

Article 7

All competent authorities in the Federation shall cooperate with any international human rights monitoring mechanisms established for Bosnia and Herzegovina and with the supervisory bodies established by any of the instruments listed in the Annex.

B. Initial Appointment and Functions of the Ombudsmen

¹¹ Am. VI, originally "to be implemented in accordance with Federation legislation and Cantonal legislation consistent therewith".

¹² Am. VI, originally "they were deprived in the course of ethnic cleansing and to be compensated for any property which cannot be restored to them".

¹³ Am. VI, originally "or commitments".

¹⁴ Am. VI, originally "shall be treated as null and void."

¹⁵ Added by Am. VI.

¹⁶ Added by Am. VII.

¹⁷ Added by Am. VII.

¹⁸ Added by Am. VII.

¹⁹ Am. VII, originally under (b) as "All citizens shall be entitled to hold the citizenship of another state".

1. General Provisions

Article 1

- (1) There shall be three Ombudsmen, one Bosniac, one Croat, and one Other, who shall be appointed by the Federation Legislature in accordance with legislation it shall adopt no sooner than three years after the entry into force of this Constitution.
- (2) Each of the Ombudsmen shall, with the approval of the President, appoint one or more Deputies. They shall in particular seek to appoint Deputies in Municipalities with populations that do not reflect the composition of the Canton as a whole. The competent authorities shall facilitate such efforts.
- (3) The terms of service of the Ombudsmen and their Deputies shall be the same respectively as those of the President and of the judges of the Supreme Court.
- (4) Each Ombudsman shall also appoint additional staff within the framework of the budget approved therefore by the Cabinet of the Federation or initially by the Prime Minister.

Article 2

- (1) The Ombudsmen are to protect human dignity, rights, and liberties as provided in the Constitution, in the instruments listed in the Annex thereto, and in the constitutions of the Cantons. In particular, they shall act to reverse the consequences of the violations of these rights and liberties and especially of ethnic cleansing.
- (2) In carrying out their functions, the Ombudsmen must be guided by law and by the principles of morality and justice.

Article 3

Each Ombudsman shall exercise his functions individually, except as otherwise provided herein. Two or more Ombudsmen may cooperate in carrying out any of their functions.

Article 4

The Ombudsmen are independent in carrying out their functions, and no person or governmental organ may interfere with such functions.

2. The Competence and the Powers of the Ombudsmen

Article 5

The Ombudsmen may examine the activities of any institution of the Federation, Canton, or Municipality, as well as of any institution or person by whom human dignity, rights, or liberties may be negated, including by accomplishing ethnic cleansing or preserving its effects.

Article 6

(1) An Ombudsman is entitled to initiate proceedings in competent courts and to intervene in pending proceedings, including any in the Human Rights Court.

(2) As provided for in Article IV.C.8, an Ombudsman is entitled to receive the assistance of the Judicial Police.

Article 7

(1) In carrying out his functions an Ombudsman may examine all official documents, including secret ones, as well as judicial and administrative files and require any person (including any official) to cooperate, in particular by providing relevant information, documents, and files. Ombudsmen may also attend court and administrative hearings, as well as meetings of other organs, and may [*749] enter and inspect any place where persons deprived of their liberty are confined or work.

(2) The Ombudsmen, their Deputies, and any person who carries out inquiries pursuant to paragraph (1) are required to maintain the confidentiality of information obtained and shall in particular treat all documents and files in accordance with applicable rules, except as provided in Article 8.

3. Reports of the Ombudsmen

Article 8

(1) Each Ombudsman shall present an annual report to the Prime Minister and the Deputy Prime Minister of the Federation, to each Cantonal President, and to the CSCE.

(2) An Ombudsman may also present at any time special reports to any competent Federation, Cantonal, Municipal, or international authorities. Domestic institutions shall have an obligation to reply within a time limit specified by the Ombudsman.

(3) In the reports referred to in paragraphs (1) and (2), an Ombudsman may include any material described in Article 5 and shall make arrangements to protect information requiring confidentiality.

4. Regulations of the Ombudsmen

Article 9

Each Ombudsman shall draw up, or the Ombudsmen may collectively draw up, Regulations that specify their organization and the method of exercising their functions. The Regulations shall be promulgated in the Official Journal of the Federation. The Federation Legislature may change these Regulations by law.

III. DIVISION OF RESPONSIBILITIES BETWEEN THE FEDERATION GOVERNMENT AND THE CANTONS

Article 1

*The Federation shall have exclusive responsibility for:*²⁰

- (a) Organizing and conducting the defense of the Federation and protecting its *territory*²¹, including establishing a joint command of all military forces in the Federation, controlling military production, *signing military agreements according to the Constitution of Bosnia and Herzegovina; cooperating with the Standing Committee on Military Matters and the Council of Ministers,*²²
- (b) *Citizenship of the Federation,*²³
- (c) Making economic policy, including planning and reconstruction, and land use policy on the federal level,²⁴
- (d) *Regulating finances and financial institutions of the Federation and fiscal policy of the Federation,*²⁵
- (e). *Combating terrorism, inter-cantonal crimes, drug trafficking and organized crime.*²⁶
- (f) Allocating electronic frequencies for radio, TV and other purposes, *according to the BH Constitution.*²⁷
- (g) Making energy policy, including inter-cantonal distribution matters, and providing and maintaining the related infrastructure.
- (h) Financing activities of or under the aegis of the Federal Government by taxation, borrowing, or other means.

Article 2

Both the Federation Government and the Cantons are to have responsibilities for the following:

- (a) Guaranteeing and enforcing human rights;
- (b) Health;
- (c) Environmental policy;
- (d) *Infrastructure for communications and transport, according to the Constitution of Bosnia and Herzegovina.*²⁸
- (e) Social welfare policy;
- (f) Implementing laws and regulations concerning citizenship;
- (g) *Implementing laws and regulations concerning citizenship and passports of citizens of Bosnia and Herzegovina from the Federation territory, and on foreigners staying and movement.*²⁹

²⁰ Am. VIII, originally "The Federation Government is to have exclusive responsibility for." The original letter (a) "Conducting foreign affairs" is deleted.

²¹ Am. VIII, originally "borders"

²² Am. VIII, originally "and making joint military arrangements".

²³ Am. VIII, originally under "(c) Citizenship".

²⁴ Am. VIII, original letter (e) "Regulating commerce, including customs, international trade and finance, trade within the Federation, industrial property rights, product standards, securities, and communications" has been deleted.

²⁵ Am. VIII, originally under (f) as "Regulating finance and financial institutions, including establishing and controlling the currency of the Federation, making monetary and fiscal policy, and establishing a central bank".

²⁶ Am. VIII, originally under (g) as "Combatting international and inter-cantonal crimes, in particular terrorism, drug trafficking, and organized crime, and cooperating with Interpol."

²⁷ Added by Am. VIII.

²⁸ Am. IX, originally "(d) Infrastructure for communications and transport".

²⁹ Am. IX, originally "(g) Immigration and asylum".

- (h) Tourism; and
- (i) Use of natural resources.

Article 3

As appropriate, the responsibilities in Article 2 may be exercised jointly or separately, or by the Cantons as coordinated by the Federation Government.

Accordingly, the Cantons and the Federation Government shall consult one another on an ongoing basis with regard to these responsibilities.

In exercising these responsibilities in accordance with this Constitution and Decisions of the Federation Legislature, the Federation shall act with respect for Cantonal prerogatives, the diverse situations of the Cantons and the need for flexibility in implementation when enacting laws and regulations binding throughout the Federation. The Federation Government accordingly has the right to make policy and enact laws concerning each of these responsibilities.

In exercising these responsibilities in accordance with this Constitution and their respective Cantonal constitutions, the Cantons shall act with respect for inter-Cantonal comity, for coordinated approaches to inter-Cantonal matters, and for consistency on matters implicating interests outside their respective borders and shall enforce, complement, and as necessary, elaborate upon Decisions of the Legislature. The Cantons have the right to make policy and enact laws accordingly concerning each of these responsibilities.

Article 4

The Cantons shall have all responsibility not expressly granted to the Federation Government. They shall have, in particular, responsibility for:

- (a) Establishing and controlling police forces, which shall have identical Federation uniforms, with Cantonal insignia.
- (b) Making education policy, including decisions concerning the regulation and provision of education.
- (c) Making and conducting cultural policy.
- (d) Making housing policy, including decisions concerning the regulation and provision of housing.
- (e) Making policy concerning the regulation and provision of public services.
- (f) Regulating local land use, including by zoning.
- (g) Regulating and promoting local business and charitable activities.
- (h) Regulating and ensuring the availability of local energy production facilities.
- (i) Making policy concerning radio and television facilities, including decisions concerning regulation and provision thereof.
- (j) Implementing social welfare policy and providing social welfare services.
- (k) Establishing and implementing Cantonal tourism policy; developing tourism resources.
- (l) Financing activities of or under the aegis of the Cantonal government by taxation, borrowing, or other means.

IV. STRUCTURE OF THE FEDERATION GOVERNMENT

A. The Federation Legislature

1. The House of Representatives

Article 1

There shall be a House of Representatives, comprising 140 Members.

Article 2

The term of Members of the House of Representatives shall be four years, unless the House is dissolved in accordance with this Constitution.

Article 3

(1) Members of the House of Representatives shall be elected democratically by eligible voters in a direct, Federation-wide election. Each voter shall be eligible to cast a single, secret ballot for any registered party. Each party receiving at least five percent (5%) of the total valid votes cast shall be allocated a number of seats proportional to its percentage of the vote received.

(2) Before each election, each registered party shall publish a list of candidates. The Members of the House of Representatives from each party shall be the persons highest on that party's list; replacements for Members shall be the persons highest of the remainder on that list.

Article 4

Any eligible voter may serve as a Member of the House of Representatives.

Article 5

The House of Representatives shall first be convened not later than twenty days after the results of the election have been promulgated.

2. The House of Peoples

Article 6

There shall be a House of Peoples, comprising 30 Bosniac and 30 Croat Delegates as well as Other Delegates, whose number shall be in the same ratio to 60 as the number of Cantonal legislators not identified as Bosniac or Croat is in relation to the number of legislators who are so identified.

Article 7

The term of Delegates to the House of Peoples shall be four years, unless the House is dissolved in accordance with the Constitution.

Article 8

The number of Delegates to be allocated to each Canton shall be proportional to the population of the Canton. Within that number, the percentage of Bosniac, Croat, and Other Delegates of a Canton shall be as close as possible to the percentage of the Bosniac, Croat, and Other legislators in the Canton. However, there shall be at least one Bosniac, one Croat, and one Other Delegate from each Canton that has at least one such member in its Legislature, and the total number of Bosniac, Croat, and Other Delegates shall be in accordance with Article 6. Bosniac, Croat, and Other Delegates from each Canton shall be elected by the respective legislators in that Canton's Legislature.

Article 9

The Delegates shall be elected from the members of the Cantonal legislatures.

Article 10

The House of Peoples shall first be convened no later than twenty days after the Cantonal Legislatures are elected.

3. General

Article 11

Each House shall elect from among its members its Chairman and a Deputy Chairman, who shall not be from the same constituent people, and shall adopt its internal rules, which may provide for additional officers.

Article 12

Each House shall deliberate publicly, other than in exceptional circumstances as provided in its rules, and shall publish a record of its deliberations and decisions.

Article 13

(1) Members of either House of the Legislature shall not be held criminally or civilly liable for any acts carried out within the scope of their respective authority.

(2) No member of either House shall be detained or arrested by any authority in the Federation without the approval of that House.

Article 14

Legislators shall be compensated as provided in legislation. Compensation shall not be increased or decreased during a legislative term except for cost of living adjustments.

Article 15

Each House is expected to reject or approve necessary legislation within a reasonable time of its approval in the other House. When the Prime Minister decides that one House is delaying its disposition of such legislation unduly, he may convene a joint conference, comprising up to ten members from each House of the Legislature, to develop within ten days a position acceptable to both Houses.

Article 16

(1) When the President decides that the Legislature is unable to enact necessary legislation, he may with the concurrence of the Vice-President dissolve either or each House of the Legislature, provided that a House may not be dissolved within one year of being first convened.

(2) The President shall dissolve the Legislature when it fails to adopt the budget of the Federation before the start of the budgetary period.

4. Decisions of the Legislature

Article 17

Unless provided otherwise in the Constitution, decisions of the Legislature require the approval of each House of the Legislature, except for rules pertaining only to one House and declarations made by it.

Article 18

Decisions that concern the vital interest of any of the constituent peoples shall require, in the House of Peoples, the approval of a majority of the Delegates, including a majority of the Bosniac Delegates and of a majority of the Croat Delegates. This provision may be invoked by a majority vote of the Bosniac or Croat Delegates. If a majority of the remaining Delegates opposes the invocation of this provision, a Joint Commission of the Bosniac and Croat Delegates shall be established to resolve the issue. If the Commission is unable to do so within one week of the provision's innovation, the question shall be determined by the Constitutional Court in an expedited procedure.

Article 19

Other Decisions shall be taken by a simple majority in each House except as otherwise provided in the rules of that House or in this Constitution.

5. Powers of the Legislature

Article 20

- (1) In addition to other powers specified in the Constitution, the Legislature shall have responsibility for:
- (a) electing the Federation President and Vice-President, as provided in Article IV.B.2 of this Constitution;
 - (b) requesting in accordance with Article IV.B.3(1) of this Constitution that the Constitutional Court decide whether to remove the President or Vice-President;
 - (c) approving by a majority vote the Cabinet;
 - (d) enacting laws to exercise responsibilities allocated to the Federation Government, which shall take effect as specified therein but no sooner than when promulgated in the Official Journal;
 - (e) authorizing any use of military force by the Federation, which must be in accordance with international law;
 - (f) *authorizing Cantons to conclude agreements with states and international organizations, if approved by the Parliamentary Assembly of Bosnia and Herzegovina, except to the extent that the Parliamentary Assembly of Bosnia and Herzegovina provides by law that certain types of agreements do not require such approval.*³⁰
 - (g) ...³¹
 - (h) *approving agreements with states and international organizations, by a majority vote, with the previous consent of the Parliamentary Assembly of Bosnia and Herzegovina, except to the extent that the Parliamentary Assembly of Bosnia and Herzegovina provides by law that certain types of agreements do not require such approval.*³²
 - (i) financing the armed forces of the Federation and approving nominations of officers as provided in Article IV.B.8 of this Constitution;
 - (j) adopting the budget of the Federation and enacting legislation to levy taxes and otherwise secure the necessary financing; and
 - (k) performing such other responsibilities as are conferred upon it.

Article 21

Either House may conduct investigations and for this purpose may compel the production of testimony and documents.

B. The Federation Executive

1. The President and the Vice-President

³⁰ Am. X, originally "authorizing Cantons to conclude agreements with states and international organizations".

³¹ Am. X deleted original letter (g), reading "guiding the Prime Minister in the conduct of foreign affairs".

³² Am. X, originally "approving treaties by majority vote".

Article 1

*The President of the Federation shall represent the Federation and shall be the head of the Federal executive power.*³³

Article 2

In electing the President and Vice-President, a caucus of the Bosniac Delegates and a caucus of the Croat Delegates to the House of Peoples shall each nominate one person. Election as President and Vice-President shall require approval of the two nominees jointly by a majority vote in the House of Representatives, then by a majority vote in the House of Peoples, including a majority of the Bosniac Delegates and a majority of the Croat Delegates. Should either House reject the joint slate, the caucuses shall reconsider their nominations. The persons elected shall serve alternative one-year terms as President and Vice-President during a four-year period. Successive Presidents may not be from the same constituent people.

Article 3

(1) The President or the Vice-President may be removed by a decision of the Constitutional Court, acting pursuant to a Decision of the Legislature, adopted by a two-thirds majority vote of each House, that the official has violated the oath of office or is otherwise unworthy to serve.

(2) If either the President or the Vice-President dies, is removed from office, or, in the opinion of the Cabinet acting by consensus, is permanently unable to fulfill the duties of the office, the procedure provided in Article 2 shall be followed within thirty days by the caucus which nominated the person to be replaced, to fill the vacancy for the remainder of the original term. Either the President or Vice-President shall perform the functions of both offices during the period provided for in the preceding sentence or while, in the opinion of the Cabinet acting by consensus, the other is temporarily unable to do so; necessary concurrences shall be sought from whichever Chairman of a House of the Legislature is from another constituent people. If both offices become vacant, the Chairman of the House of Peoples shall serve as President, and the Chairman of the House of Representatives shall service as Vice-President, for the necessary period.

2. The Cabinet

Article 4

*The Federation Government shall consist of a Prime Minister, who shall be the president of the Government,*³⁴ a Deputy Prime Minister and Ministers, each of whom shall have a Deputy. *No Deputy, including the Deputy Prime Minister, may be from the same constituent people as his Minister.*³⁵

Article 5

(1) The President, with the concurrence of the Vice-President, shall nominate the Cabinet after consultation with the Prime Minister (or the nominee for that position). Nominations shall require the approval of a majority of the House of Representatives. Any vacancy shall be filled by the same procedure. No fewer than one-third of the Ministerial positions shall be occupied by Croats.

³³ Am. XI, originally "The President shall be the head of state."

³⁴ Am. XII, originally "The Cabinet shall consist of a Prime Minister, who shall be the head of government".

³⁵ Am. XII, originally, "No Deputy (including the Deputy Prime Minister) may be from the same constituent people as his Minister. The Deputy Prime Minister shall serve alternatively as either Defense Minister or Foreign Minister."

(2) The Cabinet may be removed either by the President with the concurrence of the Vice-President, or by a vote of no confidence adopted by a majority in each House of the Legislature. The President shall remove Ministers and Deputy Ministers upon the proposal of the Prime Minister.

Article 6

(1) Decisions of the Cabinet that concern the vital interest of any of the constituent peoples shall require consensus. This provision may be invoked by one-third of the Ministers excluding the Prime Minister and Deputy Prime Minister, unless otherwise determined by the Constitutional Court in an expedited procedure requested by the Prime Minister or the Deputy Prime Minister. For the purposes of this provision, "Decisions of the Cabinet" refers only to the decisions described in Article IV.B.3(2), Article IV.B.9, and Article VIII.1.

(2) Except under the circumstances described in Article IV.B.3(2), when the Prime Minister concludes that the Government cannot reach consensus in the circumstances described in paragraph (1), he shall refer the pending matter to the President or Vice-President, whoever is not from the same constituent people as is the Prime Minister, for a decision without delay.

3. Distribution of Executive Competencies.

Article 7

Except as specifically provided in this Constitution:

(a) The President shall be responsible for:

(i) nominating the Government, heads of diplomatic missions, officers of the military, and judges of Federation courts, in accordance with Articles IV.B.5, IV.B.8, and IV.C.6;

(ii) serving as commander-in-chief of the military of the Federation;

(iii) conducting consultations concerning the appointment of Ombudsmen and Judges in accordance with Article II.B.2 and IV.C.9;

(iv) signing Decisions of the Legislature upon their enactment by the Legislature in accordance with Articles IV.A.17, 18, and 19;

(v) signing and ratifying international agreements on behalf of the Federation,³⁶

(vi) ...³⁷

(viii) granting reprieves and pardons for offenses against Federation law, except for war crimes, crimes against humanity, and genocide.

(b) The Vice-President shall be responsible for:

(i) replacing the President in the circumstances specified in Article 3 of this Sub-Chapter;

(ii) acting with the President in those situations in which the latter is required to seek his concurrence; and

(iii) carrying out such responsibilities assigned to him by the President or by legislation.

³⁶ Am. XIII, originally "signing and ratifying international agreements on behalf of the Federation, consistent with Article IV.B.7(d)".

³⁷ Am. XIII deleted original number (vi), reading "receiving and accrediting ambassadors; and".

(c) The Prime Minister shall be responsible for:

- (i) executing and enforcing Federation Government policies and laws, including by ensuring that the Federation Government executes judicial decisions;
- (ii) proposing removals to the President as provided in Article IV.B.5(2);
- (iii) proposing and making recommendations concerning legislation; and
- (iv) preparing budgetary proposals of the Legislature.

(d) ...³⁸

(e) The Deputy Prime Minister shall be responsible for:

- (i) *servng as a Minister*;³⁹
- (ii) assisting the Prime Minister in executing and enforcing laws and policies of the Federation;
- (iii) deciding whether to seek the opinion of the Constitutional Court; and
- (iv) serving as Prime Minister when the latter is unable to serve or the position is vacant, until a new Prime Minister takes office.

(f) Each Minister shall be responsible for:

- (i) executing Federation Government policies and enforcing Federation Government laws within the scope of his Ministry or as assigned by the Prime Minister;
- (ii) proposing and making recommendations concerning legislation within the scope of his Ministry or as assigned by the Prime Minister;
- (iii) directing, coordinating, and supervising the activities of his Ministry;
- (iv) issuing notices, instructions, directives, and regulations to facilitate the implementation and administration of laws concerning his Ministry and those affecting matters assigned to him by the Prime Minister, subject to this Constitution and the law of the Federation;
- (v) formulating, explaining, and analyzing budgetary proposals concerning his Ministry or, at the request of the Prime Minister, other matters;
- (vi) responding to inquiries from either House of the Legislature concerning matters within his Ministry or any other matters assigned to him by the Prime Minister; and
- (vii) assisting the Prime Minister in executing and enforcing Federation Government policies and laws; and
- (viii) deciding whether to approve the invocation of the procedures described in Article IV.B.6(1).

(g) Each Deputy Minister shall be responsible for:

- (i) assisting his Minister in executing Federation Government policies and enforcing Federation Government laws;
- (ii) assisting his Minister in carrying out the other functions described in paragraph (f); and

³⁸ Am. XIII deleted original letter (d), reading "The President and the Prime Minister shall be jointly responsible for conducting foreign affairs within guidelines provided by the Legislature under Article IV.A.20(1)(a)."

³⁹ Am. XIII, originally "serving alternately as either Defense Minister or Foreign Minister"

(iii) serving as Minister should the latter be unable to serve or the position is vacant, until a new Minister takes office.

Article 8

The President, with the concurrence of the Vice-President, shall nominate heads of diplomatic missions in consultation with the Prime Minister (or the nominee for that position), and shall nominate officers of the armed forces. Nominations shall require the approval of a majority of each House of the Legislature, provided that approval of nominations for the members of the Joint Command of Military Forces shall require in the House of Peoples a majority of the Bosniac and of the Croat Delegates.

Article 9

The Government is authorized to promulgate decrees having the force of law in response to national emergencies when the Legislature is unable to do so.

Decrees shall take effect in the same manner as a Decision of the Legislature and may not derogate from the rights and freedoms provided in this Constitution. Each decree shall terminate no later than the end of the thirtieth day after its promulgation, provided that it shall terminate immediately upon disapproval by a Decision of the Legislature or at the end of the tenth day after its promulgation if the Legislature is in session when the decree is promulgated. A decree promulgated while the Federation is using armed force in accordance with this Constitution shall remain in force until the fifth day of the next session of the Legislature, when it shall expire unless approved but in no event more than six months. After termination, a decree shall not be extended, reinstated, or repeated without a Decision of the Legislature to that effect.

4. Immunities

Article 10

Neither the President, Vice-President, the Prime Minister, the Deputy Prime Minister, nor the remaining members of the Government shall be held criminally or civilly liable for any acts carried out within the scope of his respective authority.

C. The Judiciary

1. General Provisions Concerning All Courts

Article 1

(1) The judicial functions in the Federation shall be exercised by the courts of the Federation specified in paragraph (2), by the Cantonal courts specified in Article V.11 and by the Municipal courts specified in Article VI.8.

(2) The Courts of the Federation shall be:

- (a) The Constitutional Court;
- (b) The Supreme Court; and

(c) The Human Rights Court.

Article 2

All organs of government shall carry out and assist in implementing judgments and orders of all courts referred to in this Constitution.

Article 3

Except as otherwise specified in this Constitution, such rules of procedure as may be necessary to ensure uniformity with regard to due process and the basic principles of justice in the proceedings of all courts shall be established by laws of the Federation; a Cantonal legislature may adopt any complementary rules to govern the courts of that Canton and of Municipalities therein. Subject to such rules, each court may organize itself and adopt any subsidiary rules.

Article 4

- (1) All judicial power in the Federation shall be exercised independently and autonomously.
- (2) Courts shall ensure that all parties to legal proceedings are treated equally.
- (3) Unless otherwise provided by legislation for certain exceptional situations, all court proceedings shall be open. All judgments shall be announced publicly.

2. General Provisions Concerning the Courts of the Federation

Article 5

- (1) All Judges of all the Courts of the Federation shall be distinguished jurists of the highest moral standing.
- (2) Judges of the Federation shall not be held criminally or civilly liable for any acts carried out within the scope of their respective authority.

Article 6

Except as specifically otherwise provided:

- (a) There shall be an equal number of Bosniac and Croat Judges on each Court of the Federation. Others shall also be appropriately represented on each such Court.
- (b) The Judges of all the Courts of the Federation shall be nominated by the President with the concurrence of the Vice-President and shall require the approval of a majority of the House of Peoples;
- (c) The Judges of all Courts of the Federations shall serve until age 70, unless they resign or they are removed for cause by the consensus of the Judges of the same Court. However, those Judges appointed initially under this Constitution shall serve for a term of five years unless they reach age 70 sooner, but shall be eligible for reappointment.

Article 7

- (1) The Legislature of the Federation shall by law provide for the salaries and other terms of service of all the Judges of the Courts of the Federation, which shall be equal except that special emoluments may be specified for the Presidents of each of the Courts.
- (2) The salaries and other emoluments of a Judge may not be diminished during the period of his service on one of the courts of the Federation.

Article 8

- (1) There shall be established a Judicial Police to assist each Federation Court in securing information, in ensuring the presence of witnesses and the transport of accused persons, in maintaining the decorum of courtrooms and the security of court premises, and in carrying out court orders.
- (2) The overall composition of the Judicial Police shall reflect that of the population of the Federation, and for any local units that of the relevant Canton or Municipality.
- (3) The President of the Supreme Court shall be responsible for the management of the Judicial Police.
- (4) The President of the Supreme Court shall promulgate arrangements under which the Judicial Police may assist any Ombudsman, at his request, in the performance of his duties.

3. The Constitutional Court

Article 9

The Constitutional Court shall consist of nine Judges.

Article 10

- (1) The primary function of the Constitutional Court shall be to resolve disputes:
 - (a) between any Cantons;
 - (b) between any Canton and the Federation Government;
 - (c) *between any city, its Canton or the Federation Government;*⁴⁰
 - (d) *between any municipality and any city;*⁴¹
 - (e)⁴² between any Municipality and its Canton or the Federation Government; and
 - (f)⁴³ between or within any of the institutions of the Federation Government.
- (2) The Constitutional Court shall:

⁴⁰ Added by Am. XIV.

⁴¹ Added by Am. XIV.

⁴² Lettering changed by Am. XIV.

⁴³ Lettering changed by Am. XIV.

(a) At the request of the President, of the Vice-President, of the Prime Minister, of the Deputy Prime Minister, or of one-third of the members of either House of the Legislature, determine whether any proposed law that has been adopted by either House of the Legislature, or any law or proposed law that has been adopted by each House of the Legislature, is in accord with this Constitution;

(b) At the request of the Prime Minister, of the Deputy Prime Minister, of the Cantonal President concerned, or of one-third of the members of the Legislature of a Canton, determine whether any law or proposed law that has been adopted by that Legislature (including the Cantonal Constitution and any amendments thereto), is in accord with this Constitution.

(c) At the request of the President, of the Vice-President, of the Prime Minister, of the Deputy Prime Minister, determine whether any regulation enacted or proposed regulation to be enacted by any organ of the Federation Government is in accord with this Constitution.

(d) At the request of the Prime Minister, the Deputy Prime Minister, or of the Cantonal President concerned, determine *whether any proposed law that has been adopted by a body of the Canton, city or municipality authority, is in accord with this Constitution.*⁴⁴

(3) The Constitutional Court shall also decide constitutional questions presented by the Supreme Court or the Human Rights Court or a Cantonal court that arise in the course of a proceeding currently pending before that Court.

Article 11

Whenever the Supreme Court, the Human Rights Court or a Cantonal court should consider, in the course of a proceeding currently pending before such court, that an applicable law is not in accord with this Constitution, it shall stay the proceeding and present the question to the Constitutional Court in accordance with Article 10(3).

Article 12

Decisions of the Constitutional Court shall be final and binding. In particular:

(a) If the Court decides a dispute pursuant to Article 10(1), all parties to the dispute shall abide by that decision and comply with any orders of the Court issued in the course of or at the end of the proceeding;

(b) If the Court determines that a law or regulation or proposed law or regulation of the Federation or of any Canton or of any Municipality is not in accord with this Constitution, such law or proposed law shall not remain or enter into force, except if altered in such a manner as specified by the Court or unless the Court specifies some transitional arrangements which may not extend to a period in excess of six months;

(c) If the Court decides a constitutional question presented to it pursuant to Article 10(3), its response shall be binding on the Court that presented the question in respect of the proceeding in the course of which it arose and shall also have the effect specified in (b).

Article 13

(1) In any proceeding pursuant to Article 10(1), both parties to the dispute are entitled to be represented. The Court may also permit other governmental entities that it considers as interested in the dispute to participate in the proceeding.

⁴⁴ Am. XIV, originally "whether any regulation enacted or proposed regulation to be enacted by any organ of the Cantonal or Municipal government is in accord with this Constitution."

(2) In any proceeding pursuant to Article 10(2), the person or persons who requested the Court's determination are entitled to be represented, as well as a representative of the House or Legislature that has adopted the law in question.

(3) In any proceeding pursuant to Article 10(3), all parties to the proceeding that gave rise to the constitutional question at issue are entitled to be represented.

4. The Supreme Court

Article 14

The Supreme Court shall have a number of Judges determined from time to time by Federation legislation but no fewer than nine.

Article 15

(1) The Supreme Court shall be the highest court of appeals of the Federation, including appeals from Cantonal courts, in respect of matters involving questions concerning the Constitution, laws or regulations of the Federation and others as provided for in Federation legislation, except those within the jurisdiction of the Constitutional Court or of the Human Rights Court.

(2) The Supreme Court shall also have such original jurisdiction as is provided by Federation legislation.

Article 16

Judgments of the Supreme Court shall be final and binding. In particular Judgments as well as any orders of the Court in respect to appeals submitted pursuant to Article 15(1) shall be binding on the parties to the proceeding as well as on the court from which the appeal in question was taken.

Article 17

When the Court is exercising original jurisdiction pursuant to Article 15(2) it shall have, in addition to any powers specifically provided by the legislation pursuant to which it is acting, the same powers that other courts of original jurisdiction have pursuant to the laws referred to in Article 3(1) of this Sub-Chapter.

5. The Human Rights Court

Article 18

(1) The Human Rights Court shall consist of three Judges, one Bosniac, one Croat and one Other.

(2) If the Court concludes that its business requires the participation of more judges to avoid undue delays in the disposition of cases, the Federation Legislature shall by legislation provide for the appointment of additional judges, in accordance with the above-specified proportion.

Article 19

The competence of the Human Rights Court shall extend to any question concerning a constitutional or other legal provision relating to human rights or fundamental freedoms or to any of the instruments listed in the Annex. The Court shall have jurisdiction over cases commenced after 1 January 1991.

Article 20

Any party to an appeal in which another court of the Federation or any Canton has pronounced a judgment that is not subject to any other appeal (for a reason other than the lapse of a time limit for which the moving party is responsible), may appeal such judgment to the Court on the basis of any question within its competence. The Court may issue orders or other relief it deems appropriate. The decision of the Court shall be final and binding.

Article 21

- (1) An appeal may also be taken to the Court if a proceeding is pending for an unduly long time in any other court of the Federation or any Canton.
- (2) The Court shall decide whether to accept such an appeal after a preliminary consideration of whether the proceeding in the other court has been pending too long and whether the subject of the appeal is within its competence.
- (3) The Court may make other provisions for expediting proceedings.

Article 22

The Constitutional Court and the Supreme Court or any Cantonal court may, at the request of any party to an appeal pending before it, or on its own motion in relation to such an appeal, address to the Human Rights Court a question arising out of the appeal if the question relates to any matter within the competence of that Court. The response of the Court is binding on the requesting court.

Article 23

- (1) The Human Rights Court shall regulate its own procedures and its organization.
 - (2) Each panel of the Court is to have the composition specified for the Court in Article 18(1).
 - (3) The Court shall allow written and oral pleadings in every proceeding pursuant to Articles 20-22.
-

V. THE CANTONAL GOVERNMENTS

1. General Provisions

Article 1

Each Canton shall, in carrying out its responsibilities as described in Articles III.2 and 4 of this Constitution:

(a) take all necessary steps to ensure the protection of the rights and freedoms listed in Sub-Chapter II.A and provided in the instruments listed in the Annex to this Constitution and shall act consistently with this Constitution.

(b) exercise its responsibilities with due regard to the population in each Municipality.

Article 2

(1) *Each canton may confer its responsibilities to a municipality or city in its territory, or to the federal authority.*⁴⁵

(2) Each Canton may delegate functions concerning education, culture, tourism, local business and charitable activities,⁴⁶ and radio and television to a municipality or city in its territory, and is obliged to do so if the majority of population in the municipality or city is other than that of the Canton as a whole.⁴⁷

(3) Each Canton may enter into agreements with states and international organizations, with the approval of the Federation Assembly and the Parliamentary Assembly of Bosnia and Herzegovina, except to the extent that the Parliamentary Assembly of Bosnia and Herzegovina provides by law that certain types of agreements do not require its approval.⁴⁸

Article 3

Cantons with a Bosniac-majority or a Croat-majority population may establish Councils of Cantons in order to coordinate policies and activities on matters of common interest to their communities and to advise their representatives in the House of Peoples. These may include coordinating bodies, such as commissions and working groups, to share information and harmonize the Cantons' respective actions in implementing their responsibilities, but may not include military or political arrangements.

Article 4

Each Canton shall have a constitution, which shall provide for:

(a) the institutions described below; and

(b) the protection of the rights and freedoms described in this Constitution;

and shall be consistent with this Constitution.

2. The Cantonal Legislatures

Article 5

⁴⁵ Am. XV, originally "Each Canton is authorized to delegate or confer its responsibilities to Municipalities in its territory or to the Federation Government."

⁴⁶ Am. XV, originally "organizations".

⁴⁷ Am. XV, originally "to its Municipalities and shall do so to those Municipalities whose majority population is other than that of the Canton as a whole."

⁴⁸ Am. XV, originally "only with the consent of the Legislature of the Federation."

(1) Each Canton shall have a Legislature consisting of one House comprising a number of Legislators determined in proportion to its population but no fewer than thirty and no more than fifty.

(2) The term of Cantonal Legislators shall be two years.

(3) Cantonal Legislators shall be elected democratically by the eligible voters in a direct, Canton-wide election. Each voter shall be eligible to cast a single, secret ballot for any registered party. Each party receiving at least three percent of the total valid votes cast shall be allocated a number of seats proportional to its percentage of the vote received by all the parties to which seats are allocated.

(4) Before each election, each registered party shall publish a list of candidates. Each party's Cantonal Legislators shall be selected from the persons highest on that party's list; replacements for Legislators shall be made from the highest of the remainder on that list.

(5) Any eligible voter is eligible to serve as a Cantonal Legislator.

(6) The Cantonal Legislatures shall first be convened not later than ten (10) days after the results of the election have been promulgated.

Article 6

The Cantonal Legislature shall:

(a) prepare and by a two-thirds majority vote approve the Cantonal Constitution;

(b) elect the Cantonal President, as provided in Article V.8;

(c) elect Cantonal Judges, as provided in Article V.11;

(d) specify the jurisdiction of Cantonal and Municipal courts;

(e) enact other legislation necessary to carry out the Canton's responsibilities; and

(f) approve the Canton's budget and enact legislation to levy taxes and otherwise secure the necessary financing.

Article 7

(1) Each Cantonal Legislature shall elect from among its members its Chairman and shall adopt its rules of procedure.

(2) Cantonal Legislatures shall deliberate publicly, other than in exceptional circumstances as provided in their rules, and shall publish a record of their deliberations and decisions.

(3) Laws of the Cantonal Legislatures shall take effect as specified therein but no sooner than when disseminated to the public;

(4) No Cantonal Legislator shall be called to account criminally or civilly, detained, or otherwise punished for an opinion expressed, or a vote cast, in the Legislature.

(5) Cantonal Legislatures may conduct investigations and for this purpose may compel the production of testimony and documents.

3. The Cantonal Executive

Article 8

- (1) Each Canton shall have a President, who shall be elected by a majority of the Cantonal Legislature from among candidates nominated by Legislators.
- (2) The Cantonal President shall serve a term of two years and may not serve more than two successive terms.
- (3) The Cantonal President may be removed from office by a two-thirds majority vote of the Cantonal Legislature.
- (4) If the office of Cantonal President becomes vacant, the Cantonal Legislature shall elect another President within thirty days. In the event that the Cantonal President is temporarily unable to serve, the Chairman of the Cantonal Legislature shall serve in his stead. (5) The Cantonal Government shall be nominated by the Cantonal President and approved by the Cantonal Legislature by a majority vote. The organization of the Cantonal Government shall be decided in accordance with the Cantonal constitution, provided that the Government shall reflect the composition of the population as a whole but in any case provide for representation for each constituent people.

Article 9

The Cantonal Government shall be responsible for:

- (a) executing and enforcing Cantonal policies and laws, pertinent decisions of any Cantonal or federal court, and any responsibilities assigned to the Canton by the Federation Government;
- (b) preparing budgetary proposals for the approval of the Cantonal Legislature;
- (c) ensuring the cooperation of the Cantonal Government with the Ombudsmen;
- (d) supervising the investigation and prosecution of crimes against Cantonal law, as well as the Cantonal Police; in particular, ensuring compliance with Article 10 below; and
- (e) performing other duties as may be assigned in relevant legislation or the Cantonal Constitution.

Article 10

In exercising its responsibilities in respect to the cantonal police, the Cantonal Government shall ensure that the composition of the police shall reflect that of the population of the Canton, provided that the composition of the police of each Municipality shall reflect the composition of the latter.

4. The Cantonal Judiciary

Article 11

- (1) Each Canton shall have courts, which shall have appellate jurisdiction over the courts of its Municipalities and original jurisdiction over matters not within the competence of those courts and as provided in legislation.

(2) Cantonal Judges shall be nominated by the Cantonal President from among outstanding jurists and elected by majority vote in the Cantonal Legislature, in such a way that the composition of the judiciary as a whole shall reflect that of the population of that Canton.

(3) Cantonal Judges shall serve until age 70, unless they resign or they are removed by the consensus of the Judges of the Supreme Court. The conditions of service shall be determined by Cantonal legislation. The salaries and other emoluments of a Judge may not be diminished during the period of his service on one of the courts of the Canton.

(4) Each Cantonal Court shall elect its own President.

**5. The Cantons with the special regime - Srednja Bosna and Neretva -
whose final names are to be defined by a federal law in accordance with
Article I.2 of the Constitution of the Federation of Bosnia and Herzegovina.⁴⁹**

Article 12

In the Cantons Srednja Bosna and Neretva with the special regime, Articles V.1 through 11 of the Constitution of the Federation of Bosnia and Herzegovina are applied, unless contrary to the provisions of the Amendment:

(1) The Cantons shall delegate their responsibilities specified in Article V.2(2). Each municipality shall exercise local self-government in accordance with Article VI.2 (1).

(2) Decisions that concern the vital interest of any of the constituent peoples of the Canton shall require, in the Legislature, the approval of a majority of the Delegates, including a majority of the Croat Delegates and a majority of the Bosniac Delegates. This provision may be invoked by a majority vote of the Croat or Bosniac Delegates. If a majority of the remaining Delegates opposes the invocation of this provision, a Joint Commission of the Croat and Bosniac Delegates shall be established to resolve the issue. If the Commission is unable to do so within one week of the provision's invocation, the question shall be determined by the highest court of the Canton, subject to appeal to the Constitutional Court of the Federation.

(3) In addition to the President of the Canton, the Canton shall have the Vice-President of the Canton.

(a) The Vice-President of the Canton shall be elected in accordance with Article V.8. In electing the President and Vice-President of the Canton, a caucus of the Croat Delegates and a caucus of the Bosniac Delegate to the Cantonal Legislature shall each nominate one person. Election as President and Vice-President shall require approval of the two nominees jointly by a majority vote in the Cantonal Legislature, including a majority of the Croat Delegates and a majority of the Bosniac Delegates. Should the Canton Legislature reject the joint slate, the caucuses shall reconsider their nominations of President and Vice-President of the Canton;

(b) The persons elected shall serve alternate one-year terms as President and Vice-President of the Canton during a two-year period. Successive Presidents of the Cantons with the special regime may not be from the same constituent people.

(c) The President or the Vice President of the Canton may not be eligible for reappointment more than twice successfully;

(d) The President and the Vice-President of the Canton may be removed by a decision of a two-third majority vote in the Cantonal Legislature, including a majority of the Croat Delegates and a majority of Bosniac Delegates to the Cantonal Legislature;

⁴⁹ Added by Am. I (the whole part)

- (e) *If either the President or the Vice-President dies, is removed from office, or, in the opinion of the Government of the Canton acting by consensus, is permanently unable to fulfill the constitutional duties of the office, the procedure provided in the above item (3) a) shall be followed within thirty days by the caucus of the Delegates to fill the vacancy for the remainder of the original term. Either the President or Vice-President shall perform the functions of both offices during the period provided for in the preceding sentence or while, in the opinion of the Government of the Canton acting by consensus, the other is temporarily unable to do so. If both offices become vacant, the Chairman of the Cantonal Legislature shall serve as both President and Vice-President.*
- (4) *The Government of the Canton with a special regime shall be:*
- (a) *nominated by the President of the Canton, with the concurrence of the Vice-President. Nomination shall require the approval of a two-third majority of the Cantonal Legislature;*
- (b) *made up of an equal number of Croats and Bosniacs as well as of an appropriate number of the Members representing Others, nominated and approved pursuant to the above item 4 a).*
- (5) *The Constitution of the Canton with the special regime shall include the provisions removing a blockage in decision-making by the Cantonal Legislature during the passage of indispensable legislation.*
-

VI. MUNICIPALITY GOVERNMENTS

Article 1

In carrying out its responsibilities, each Municipality shall:

- (a) take all necessary steps to ensure the protection of the rights and freedoms listed in Sub-Chapter VI.A and provided in the instruments listed in the Annex to this Constitution.
- (b) exercise its responsibilities with due regard to the composition of its population.

Article 2

- (1) Each Municipality shall exercise self-rule on local matters.
- (2) Each Municipality shall have a statute, which shall be consistent with this Constitution, the constitution of its Canton, and conform to any relevant Cantonal legislation.

Article 3

- (1) Each Municipality shall have a Governing Council.
- (2) The term of the members of Municipal Governing Councils shall be two years, provided that the term of the first members of the Municipal Governing Councils shall be one year.
- (3) Municipal Councilors shall be elected democratically by the eligible voters in a direct, Municipality-wide election. Each voter shall be eligible to cast a single, secret ballot for any registered party. Each party shall be allocated a number of seats proportional to its percentage of the total of valid votes.

(4) Any eligible voter is eligible to serve as a Municipal Councillor.

Article 4

The Municipal Governing Council shall:

- (a) prepare and by a two-thirds majority vote approve the Municipal Statute Charter;
- (b) elect the Municipal Executive;
- (c) approve the Municipality's budget and enact regulations and ordinances to levy taxes and otherwise secure the necessary financing insofar as not provided by the Canton or the Federation Government; and
- (d) enact other regulations and ordinances necessary to carry out the Municipality's responsibilities.

Article 5

- (1) Each Municipal Governing Council shall arrange for the selection of the Municipal Executive and establish rules of procedure, subject to federal and Cantonal legislation.
- (2) Municipal Governing Councils shall deliberate publicly, other than in exceptional circumstances as provided in their rules, and shall keep a record of their decisions.
- (3) Municipal ordinances and regulations shall take effect when specified but not before they are disseminated to the public.

Article 6

The Municipal Executive shall be responsible for:

- (a) appointing and removing Municipal officials;
- (b) executing and enforcing Municipal policies, ordinances and regulations, as well as any responsibilities assigned to the Municipality by the Cantonal and Federation Governments;
- (c) ensuring the cooperation of Municipal officials with the Ombudsmen; and
- (d) reporting on the implementation of Municipal policies and activities to the Governing Council and the public.

Article 7

- (1) Each Municipality shall have courts, which may be established in cooperation with other Municipalities, and which shall have original jurisdiction over all civil and criminal matters, except to the extent original jurisdiction is assigned to another court by this or the Cantonal Constitution or by any law of the Federation or the Canton.
- (2) Municipal courts shall be established and funded by the Cantonal government.
- (3) Judges of Municipal courts shall be appointed by the President of the highest Cantonal Court after consultation with the Municipal Executive.

(4) Municipal Judges shall serve until age 70, unless they resign or they are removed by the consensus of the Judges of the highest Cantonal Court. The conditions of service shall be determined by Cantonal legislation. The salaries and other emoluments of a Judge may not be diminished during the period of his service on one of the Municipal courts of the Canton.

VI. A. CITY AUTHORITIES ⁵⁰

(1) For the areas of two or more municipalities which are territorially linked by the everyday needs of citizens, a city shall be formed as a local government and self-government unit, in accordance with Federal legislation.

The city shall be responsible for:

- a) finances and tax policy, in accordance with Federal and Cantonal legislation;
- b) joint infrastructure;
- c) urban planning;
- d) public transport;
- e) other responsibilities assigned to the city by the canton or municipalities.

(2) The seat of the Canton with a special regime shall be organized on the strength of the same principles.⁵¹

(3)⁵² The city shall have a statute which must be in accordance with this Constitution, Cantonal Constitution and Cantonal legislation

(4)⁵³ The city shall have a city council consisting of an equal number of councilors from each municipality, and the number of councilors, election procedure and duration of mandate shall be specified in the Statute.

The City council may not have less than 15 or more than 30 councilors.

In the case of the City of Mostar, the City Council shall continue to work with the existing number of councillors, provided that the number of councillors is harmonized with the provisions from the previous paragraph no later than the next local elections. The other specificities of the City of Mostar shall be taken into account when defining the number of the councillors and the procedures for their election.⁵⁴

(5)⁵⁵ The City council shall:

- a) prepare and by a two-thirds majority vote approve the city statute;
- b) elect the Mayor;
- c) approve the city budget;
- d) enact regulations on the exercise of transferred authorities and carry out other responsibilities specified in the statute.

(6)⁵⁶ The Mayor shall be responsible for:

- a) appointing and removing city officials,
- b) executing and enforcing city policy and city regulations,
- c) ensuring the cooperation of city officials with the Ombudsmen,
- d) reporting on the implementation of city policy to the city council and the public.

(7)⁵⁷ The city shall secure revenues by taxation, borrowing and other means, in accordance with law.

⁵⁰ Added by Am. XVI.

⁵¹ Added by Am. XXV.

⁵² Numbering was changed by Am. XXV.

⁵³ Numbering was changed by Am. XXV.

⁵⁴ Added by Am. XXV.

⁵⁵ Numbering was changed by Am. XXV.

⁵⁶ Numbering was changed by Am. XXV.

VI.B. ORGANIZATION OF SARAJEVO⁵⁸

(1) In the Sarajevo Canton the City of Sarajevo shall be established as a unit of the local self-government.

The Constitution of the Sarajevo Canton shall regulate which municipalities shall fall within the composition of the City of Sarajevo.

(2) The composition and the manner of decision-making of the organs of the City of Sarajevo shall reflect multiethnicity and particularity of the City of Sarajevo as the Capital of the Federation of Bosnia and Herzegovina.

(3) The competency, organizational structure, and the mode of decision-making of the organs of the City of Sarajevo shall be defined by the Constitution of the Canton, cantonal laws and the Statute of the City, in accordance with this Constitution.

VII. INTERNATIONAL RELATIONS

Article 1

The international relations of the Federation have to be in accordance with the international personality, territorial integrity and continuity of Bosnia and Herzegovina.⁵⁹

Article 2

The international relations of the Federation shall be based on respect for international law and treaty obligations and the principle that international disputes are to be settled by peaceful means.

Article 3

International treaties and other agreements in force in respect of *Bosnia and Herzegovina and*⁶⁰ the Federation, and the general rules of international law shall form part of the law of the Federation. In case of any incompatibility between a treaty and legislation, the former shall prevail.

Article 4

(1) International treaties and agreements with international organizations shall be signed and ratified in the name of the Federation by the Federation President. They shall only enter into force for the

⁵⁷ Numbering was changed by Am. XXV.

⁵⁸ Added by Am. XXVI (the whole sub-chapter).

⁵⁹ Am. XVII, originally "The international relations of the Federation are based on the international personality, territorial integrity, and continuity of the Republic of Bosnia and Herzegovina."

⁶⁰ Added by Am. XVIII.

*Federation only if approved by the Federation Assembly, with the prior approval of the Parliamentary Assembly of Bosnia and Herzegovina, except to the extent that the Federation Assembly or the Parliamentary Assembly of Bosnia and Herzegovina provide by law that these types of international treaties and agreements do not require such approval.*⁶¹

(2) The Federation President, on the advice of the Prime Minister, may denounce international treaties or agreements insofar as permitted by the Parliamentary Assembly of Bosnia and Herzegovina, and shall be obliged to do so if so directed by the Federation Assembly, with the consent or upon the request of the Parliamentary Assembly of Bosnia and Herzegovina.⁶²

VIII. AMENDMENT OF THE CONSTITUTION

Article 1

(1) Amendments of the Constitution may be proposed by the President in concurrence with the Vice-President, by the Government, by a majority of the House of Representatives, or by a majority of the Bosniac and of the Croat Delegates in the House of Peoples.

(2) Proposed amendments of the Constitution shall not receive final consideration in either House of the Federation Legislature until two weeks after they have first been presented.

(3) To be adopted, proposed amendments require the following majorities:

(a) In the House of Peoples, a simple majority, including a majority of the Bosniac Delegates and a majority of the Croat Delegates;

(b) In the House of Representatives, a two-thirds majority.

Article 2

No amendment to the Constitution may eliminate or diminish any of the rights or freedoms set out in Sub-Chapter II.A or alter the present Article.

IX. APPROVAL AND ENTRY INTO FORCE OF THE CONSTITUTION AND TRANSITIONAL ARRANGEMENTS

Article 1

(1) The Constitution of the Federation will be approved and promulgated by a Constituent Assembly comprising those representatives elected at the 1990 elections to the Assembly of the Republic of Bosnia and Herzegovina whose mandate is still valid.

(2) Approval of the Constitution shall require a two-thirds majority of the Constituent Assembly, including consensus between the delegation of the Croat people, comprising all representatives of Croat

⁶¹ Am. XIX, originally "International treaties and other agreements shall be signed and ratified in the name of the Federation by the Federation President. They shall only enter into force for the Federation if approved by the Federation Legislature, except to the extent that that Legislature provides by law that certain types of agreements do not require such approval."

⁶² Am. XIX, originally "by international law, and shall do so if so directed by the Federation Legislature."

nationality, and the delegation of the Bosniac people, comprising all representatives of Bosniac nationality.

(3) This Constitution shall enter into force at midnight of the day it is approved by the Constituent Assembly.

Article 2

(1) The Constituent Assembly shall:

- (a) approve this Constitution, in accordance with Article IX.1;
- (b) elect an Interim Federation President, Vice-President, and Government, as provided in Article IX.3(3); and
- (c) ...⁶³

(2) Any legislation adopted by the Constituent Assembly shall only remain valid until five months after the Federation Legislature is first convened, unless reconfirmed by that Legislature.

Article 3

(1) Until the House of Representatives is first convened, its functions under this Constitution shall be carried out by the Constituent Assembly referred to in Article 1(1).

(2) Until the House of Peoples is first convened, its functions under this Constitution shall be carried out by the Constituent Assembly. In decisions specifically requiring votes by the Bosniac and the Croat Delegates in the House, the votes of respectively the Bosniac and the Croat members of the Constituent Assembly shall be considered as fulfilling these requirements.

(3) As soon as this Constitution enters into force, the Constituent Assembly shall elect an Interim Federation President and an Interim Vice-President, applying the provisions of Article IV.B.2 in conjunction with paragraphs (1) and (2) above, as appropriate. These interim officials shall then nominate an Interim Federation Government, applying the provisions of Article IV.B.5 in conjunction with paragraph (1) above, as well as Interim Judges for the Federation Courts, applying the provisions of Article IV.C.6(b). The Interim President, Vice-President and the members of the Interim Government shall carry out the functions of the corresponding permanent officials under this Constitution until they are replaced by the officials elected or appointed in accordance with Article IX.4(2).

(4) Within thirty days of the entry into force of this Constitution, Interim Cantonal Legislatures shall be established, consisting of five members of each Municipality Assembly who shall be elected by and from those members of each such Assembly elected in 1990 and whose mandate is still valid. These Interim Legislatures shall within 10 days elect all other transitional organs in accordance with this Constitution.

(5) As soon as possible after the entry into force of this Constitution, each the members of each Municipality Assembly elected in 1990 and whose mandates are still valid shall elect Interim Municipal organs in accordance with this Constitution.

Article 4

⁶³ Am. XX deleted original letter (c), reading "enact an interim electoral law, in accordance with Article IX.3(4) and Article IX.4(1)."

(1) *The first elections for the House of Representative, House of Peoples and Cantonal Legislatures and Municipality councils shall be conducted in accordance with Annex III to the General Framework Agreement for Peace.*

Later elections shall be conducted according to the election laws to passed by the Federation Assembly.⁶⁴

(2) Within two weeks after each House of the Legislature of the Federation are first convened, they shall elect the President and the Vice-President of the Federation. Within two weeks of such election, the President, with the concurrence of the Vice-President, shall nominate the Government, and the House of Representatives shall consider these nominations promptly.

(3) *No person serving sentence pronounced by the International Tribunal for the former Yugoslavia, and no person indicted by the International Tribunal for the former Yugoslavia who does not appear before the Tribunal after called by it, cannot run for or perform any public function in the Federation territory.⁶⁵*

Article 5

(1) All laws, regulations, and judicial rules of procedure in effect within the Federation on the day on which this Constitution enters into force shall remain in effect to the extent not inconsistent with this Constitution, until otherwise determined by the competent governmental body.

(2) All international treaties and other agreements in force within the Federation on the day on which this Constitution enters into force shall remain in effect unless denounced by the President pursuant to Article VII.3(2).

Article 6

All persons holding any governmental office within the Federation on the day this Constitution enters into force shall continue to hold such office until removed therefrom in accordance with the applicable law, or until the office in question is abolished.

Article 7

The published results of the 1991 census shall be used as appropriate in making any calculations requiring population data.

Article 8

All proceedings pending in courts or administrative agencies functioning within the territory of the Federation on the day this Constitution enters into force shall continue in or be transferred to other courts or agencies to be established pursuant to this Constitution, in accordance with any legislation governing the competence of such courts or agencies..

Article 9

⁶⁴ Am. XXI, originally "Elections for the House of Representatives and the House of Peoples shall be held within six months of the entry into force of this Constitution, and for the Cantonal Legislatures and for Municipal Governing Councils within five months of such entry into force. These elections shall be governed by a law to be adopted by the Constituent Assembly by a majority vote, including a majority of the Bosniac representatives and a majority of the Croat representatives, and shall be monitored by the United Nations and by CSCE."

⁶⁵ Am. XXI, originally "No person who has been convicted of war crimes or against whom proceedings have been initiated concerning the commission of war crimes shall be elected to any public office within the Federation."

The following provisions relating to certain transitional international arrangements shall apply for the periods respectively specified:

(a) Until the Federation adopts the rules of procedure foreseen by Article IV.C.3, the Courts of the Federation may apply rules not inconsistent with this Constitution.

(b) For a transitional period, the President of the Supreme Court may make arrangements with appropriate international bodies to perform any of the functions assigned herein to the Judicial Police.

(c) For the first five years after the Constitution enters into force, three of the Judges of the Constitutional Court, who shall be foreigners who are not citizens of any neighboring state, shall be appointed by the President of the International Court of Justice after consultation with the President and the Vice-President of the Federation.

(d) (i) The Human Rights Court shall operate within the framework of the mechanism established by the Council of Europe by Resolution 93(6) of its Committee of Minister, as that Resolution may be amended from time to time as long as that Resolution remains applicable to the Federation.

(ii) The Human Rights Court shall initially consist of seven Judges, three of whom shall be appointed and serve in accordance with the requirements of Article IV.C.6. The Committee of Ministers of the Council of Europe shall appoint four of the Judges of the Court in accordance with the above-cited resolution. These Judges shall be foreigners who shall not be citizens of any neighboring state.

(iii) If the Court concludes that its business requires the participation of more judges to avoid undue delays in the disposition of cases, the President shall make arrangements with the Council of Europe for the appointment of additional judges, in accordance with the above-specified proportion of domestic and foreign judges.

(e) For a period of no less than three years and in any event until the Legislature of the Federation adopts a law relating to the appointment of the Ombudsmen, these shall be appointed and may be removed by the Conference on Security and Cooperation in Europe (CSCE) after consultation with the President and Vice-President of the Federation.

Article 10

This Constitution shall apply *in the municipalities of the city of Mostar and the city of Mostar itself while it is under the European Union administration, except as otherwise decided by the EU Administrator, who must not derogate from the Chapter II on Human Rights and Fundamental Freedoms. The President of the Federation shall during the period of the EU administration consult with the Administrator with a view to facilitating the full application of this Constitution in the city of Mostar as soon as the period ends.*⁶⁶

Article 11

(1) *The Constitutional Assembly of the Federation, consisting of the representatives of the Assembly of the Republic of Bosnia and Herzegovina elected in the 1990 elections shall continue its work until the Federation Assembly is constituted in accordance with Annexes III and IV to the General Framework Agreement for Peace.*⁶⁷

⁶⁶ Am. XXII, originally "in the District of Sarajevo and the Municipality of the City of Mostar while these are under international administration, except as otherwise decided by the international administrator, who may not derogate from the Chapter on Human Rights and Fundamental Freedoms. The President of the Federation shall during the period of international administration consult with such administrators with a view to facilitating the full application of this Constitution in such Municipalities as soon as the period ends."

⁶⁷ Am. XXIII, originally "The Assembly of the Republic of Bosnia and Herzegovina elected in 1990 shall continue its work under the responsibilities stated in the Constitution of the Republic, until a final peace agreement concerning Bosnia and Herzegovina is reached and implemented."

(2) *Until the Presidency of Bosnia and Herzegovina is set up according to Annexes III and IV to the General Framework Agreement, civilian command authority over the Army of Bosnia and Herzegovina, including appointment of military officers, shall be exercised by the President of the Presidency of Bosnia and Herzegovina, and civil command authority over the Croatian Defense Council, including the appointment of military officers shall be exercised by the President or the Vice-President of the Federation who is from the Croat people.*⁶⁸

(3) *Until the federal, cantonal and municipality officials are elected in the interim period according to Article IX.3., the present administrative arrangements shall remain in force within the Federation, with the exception of the municipalities of the city of Mostar and the city of Mostar itself, which shall be administrated by the EU administrator in the period agreed upon by the EU and both President and Vice-President of the Federation.*⁶⁹

ANNEX

HUMAN RIGHTS INSTRUMENTS TO BE INCORPORATED INTO THE FEDERATION CONSTITUTION

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide
2. 1948 Universal Declaration of Human Rights
3. 1949 Geneva Conventions I-IV on the Protection of the Victims of War, and the 1977 Geneva Protocols I-II thereto
4. 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols thereto
5. 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto
6. 1957 Convention on the Nationality of Married Women
7. 1961 European Social Charter and the Protocol 1 thereto
8. 1961 Convention on the Reduction of Statelessness
9. 1965 International Convention on the Elimination of All Forms of Racial Discrimination
10. 1966 International Covenant on Civil and Political Rights and its 1966 and 1989 Optional Protocols thereto
11. 1966 International Covenant on Economic, Social and Cultural Rights
12. 1979 International Convention on the Elimination of All Forms of Discrimination against Women
13. 1981 (UN) Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief

⁶⁸ Am. XXIII, originally "The Presidency of the Republic of Bosnia and Herzegovina shall maintain its powers under the existing Constitution of Bosnia and Herzegovina until a final peace agreement concerning Bosnia and Herzegovina is reached and implemented, providing that such powers may not interfere with any governmental powers established pursuant to this Constitution."

⁶⁹ Am. XXIII, originally "Until Interim Federation, Cantonal, and Municipal officials are elected in accordance with Article IX.3 of this Constitution, present administrative arrangements will continue in effect within the Federation, except in the Mostar City Municipality, which will be governed by a European Union Administrator for up to two years."

14. 1981 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
15. 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
16. 1989 Convention on the Rights of the Child
17. 1990 Convention on the Rights of Migrant Workers and Members of their Families
18. 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Part IV
19. 1990 Council of Europe Parliamentary Assembly Recommendation on the Rights of Minorities, paras. 10-13
20. 1992 (UN) Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
21. 1992 European Charter for Regional and Minority Languages
22. *Framework Convention on the Protection of National Minorities of 1994.*⁷⁰

⁷⁰ Added by Am. XXIV.