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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

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

ADOPTED ON 5 JUNE 1996¹

¹ *Proposed amendments on which no agreement was reached are appended.*

rapid translation done
by ECMH, 6.6.96

On the basis of the Article VIII.1.(3), referring to the articles IX.1. and IX.3.(1) and (2) of the Constitution of the Federation of Bosnia and Herzegovina, the Constitutional Assembly of the Federation of BiH, at its session held on June 5, 1996. adopted

THE AMENDMENTS II - XXV ON THE CONSTITUTION OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

AMENDMENT II

The Preamble of the Federation BiH Constitution is changed and now says:

"Convinced that the democratic institutions, based on respecting the human rights and freedoms, are the best way of creating harmony between themselves and their communities,

Refusing the violence of war,

Wishing to contribute to peace promotion,

Wishing to promote freedom of an individual and develop a free market,

Led by the principles of the United Nations Chart, Universal Declaration on Human rights and General Framework Agreement on Peace in BiH and its annexes.

The peoples and citizens of the Federation of Bosnia and Herzegovina, which is a constitutive part of the sovereign state of Bosnia and Herzegovina, decisive to ensure full national equality, democratic relations and the highest standards of the human rights and freedoms, hereby pass the Constitution of the Federation of Bosnia and Herzegovina."

AMENDMENT III

Article 1.1. of the Federation Constitution is changed and says:

"(1) The Bosniacs and Croats as the constitutive peoples, together with the others, and the citizens of Bosnia and Herzegovina from the territories of the Federation of BiH, realising their sovereign rights, are reforming the internal establishment of the Federation territories, which has been defined by the Annex II of the General Framework Agreement, so the Federation of BiH is now consisted of federal units with equal rights and responsibilities.

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

AMENDMENT IV

Article II.A.1. of the Federation Constitution is changed and says:

"Since the principles, rights and freedoms prescribed by the Article II of the BiH Constitution are being applied throughout the BiH territory, the following provisions are referring to the Federation."

AMENDMENT V

The Item 1. of the Article II.A.4. of the Federation Constitution is changed in its first sentence and says:

"The Federation will provide the implementation of the highest level of the internationally recognised rights and freedoms prescribed by the documents enlisted in the Annexes of the Constitution."

AMENDMENT VI

"All persons have right to be returned all their property that they have been deprived of during the course of ethnic cleansing and hostilities since 1991. and a right to be refunded for all their property that cannot be returned. All statements and obligations given under force/compulsion, particularly those referring to renouncing right on land and other property, are invalid.

Realising the right from the Item I of this Article is to be determined by the federal legislation."

AMENDMENT VII

Article II.A.5. of the Federation Constitution is changed and says:

"Gaining and cessation of citizenship of the federation of BiH are being prescribed by a federal law, respecting the following prerequisites:

a) no person can be deprived of citizenship in an arbitrary way, or any other way that would leave him or her without the citizenship;

b) No person can be deprived of the Federation citizenship because of the sex, race, skin colour, language, faith, political or other conviction, national or social origin, belonging to a national minority, property, birth or any other attribute.

c) all Federation citizens, according to the BiH Constitution, are the citizens of Bosnia and Herzegovina, and, according to the citizenship conditions prescribed by the BiH Constitution, have a right on citizenship of any other state."

AMENDMENT VIII

Article III.1. of the Federation Constitution is changed and says:

"It is in an exclusive competence of the Federation:

a) to organise and lead the Federation defence, to protect its territory, including formation of joint command of all military forces in the Federation, to supervise military production; to sign military agreements according to the BiH Constitution; to co-operate with the Permanent Council for military issues and the Ministers Council.

b) the Federation citizenship.

c) Determining the economic policy, including planning and reconstruction, and policy of usage of the soil on the federal level.

d) this item hasn't been agreed upon.

e) to pass regulations on finances and financial institutions of the Federation and the Federation fiscal policy.

f) stamping out of terrorism, inter-canton crime, unauthorised drug dealing and organised crime.

g) to allot electronic frequencies for radio, TV and other purposes, according to the BiH Constitution.

h) to determine energetic policy, including inter-canton distribution and providing and maintaining the necessary infrastructure

i) to finance the activities of the federal authorities and institutions established by federal authorities.

AMENDMENT IX

In the article III.2. of the federation Constitution the text under the items d) and g) is changed and says:

"d) communication and traffic infrastructure, according to the BiH Constitution.

g) enforcement of the laws and other regulations on citizenship and passports of the BiH citizens from the Federation territory, and on foreigners staying and movement"

AMENDMENT X

In the article IV.A.20. of the Federation Constitution the text under the items f) is changed and says:

"f) granting the cantons the authority to sign the agreements with the states and international organisations, with the agreement of the BiH Assembly, except of the agreements for which the BiH Assembly decides by the law that they do not need such an agreement."

Text under the Item g) is being erased.

Text under the Item h) is being changed and says:

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"h) approval, by the majority of votes, of the agreements with the states and international organisations, with the agreement of the BiH Assembly, except of the agreements for which the BiH Assembly decides by the law that they do not need such an agreement."

AMENDMENT XI

The Article IV.B.1. of the Federation Constitution is being changed and says:

"The Federation President represents the Federation and is a head of the federal executive power."

AMENDMENT XII

The Article IV.B.4. of the Federation Constitution is being changed and says:

"The Federation Government consists of the Prime Minister, who is the president of the Government, deputy Prime Minister and the ministers, each one having a deputy. No deputy, including the Prime Minister deputy, can belong to the same constitutive people as his minister."

AMENDMENT XIII

In the Article IV.B.7.a) of the Federation constitution the text of the item a) (V) is being changed and says:

"a) (V) signing and ratifying the international agreements in behalf of the federation,"

Text under a) (VI) is being erased.

Text under d) is being erased.

Text under c) (I) is being changed and says:

"c)(I) and performs duties of minister"

TEXT OF THE AMENDMENT XIII UNDER a) (I) AND a) (II) HASNT BEEN AGREED UPON.

AMENDMENT XIV

THIS AMENDMENT HASNT BEEN AGREED UPON

AMENDMENT XV

In the Article C.3.10(1) of the Federation constitution, after the item b), new items c) and d) are being added, which makes the previous items c) and d) the items e) and f):

"c) between a city, its canton or the federal authority;

d) between a municipality and a city;"

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Text under 10 (2) d) is being changed and says:

"d) determines, following a request of the Prime Minister, deputy Prime Minister or the local canton President, whether a proposed or adopted regulation, passed by a body of canton, city or municipality authority, is in accordance with this Constitution."

AMENDMENT XVI

The Article V.1.2. of the Federation Constitution is being changed and says:

"(1) Each canton can transfer its authorities to a municipality or city in its territory, or to the federal authority.

(2) Each canton can transfer the authorities concerning education, culture, tourism, local business and charity activities, radio and TV activities 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 not a majority population in the entire canton.

(3) Each canton can sign the agreements with the states and international organisations, with the agreement of the Federation Assembly and the BiH Assembly, except of the agreements for which the BiH Assembly decides by the law that they do not need such an agreement."

AMENDMENT XVII

In the Federation Constitution, after the Chapter "VI. - MUNICIPALITY AUTHORITY", the new chapter is being added:

"V.A. CITY AUTHORITIES

(1) For the areas of two or more municipalities which are connected territorially by the everyday needs of citizens, a city is being formed as a local autonomy and administration unit, according to federal law.

The city responsibility comprises:

a) finances and tax policy, according to the federal and canton laws,

b) joint infrastructure;

c) urban planning;

d) public traffic;

e) other competence the city is being entrusted with by the canton or municipalities.

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(2) City has a statute which must be in accordance with this Constitution, canton constitution and canton legislature.

(3) City has a city council whose composition is consisted of the same number of councillors from each municipality, and number of councillors, election procedure and duration of mandate is being prescribed by the Statute.

City council cannot have less then 15 or more then 30 councillors.

(4) City council:

- a) prepares and by the two-thirds majority adopts the city statute,
- b) elects mayor,
- d) pass city budget,
- e) pass regulations on executing transferred authorities and performs other competence prescribed by statute.

(5) It is in Mayor's responsibility:

- a) to appoint and dismiss city officials'
- b) to enforce city policy and city regulations,
- c) to provide co-operation of the city officials with the ombudsmen,
- e) to submit report on enforcement of city policy to city council and public.

(6) City realises the incomes by imposing taxes, encumbering and in other ways, according to law."

AMENDMENT XVIII

The Article VII.1. of the Federation Constitution is being changed and says:

"The international relations of the Federation must be in accordance with the international subjectivity, territorial integrity and continuity of BiH."

AMENDMENT XIX

The Article VII.3. of the Federation Constitution is being changed and says:

"The international contracts and other agreements which are in effect concerning BiH and the Federation, and the general regulations of the international law are the consisting part of the Federation legislature. In case of disagreement of an international contract or agreement with the Federation legislature, the contract or agreement will take precedence."

AMENDMENT XX

The Article VII.4. of the Federation Constitution is being changed and says:

"(1) Agreements with the states and international organisations are to be signed and ratified by the Federation President in behalf of the Federation. They enter the force in the Federation only if approved by the Federation Assembly, with the previous agreement of the BiH Assembly, except if the Federation Assembly or BiH Assembly haven't prescribed by their laws that such international agreements do not need agreement.

(2) The Federation President, advised by the Prime Minister, can cancel international agreements if approved by the Federation Assembly or BiH Assembly, and is obliged to do so when it is requested by the Federation Assembly, with agreement or request of the BiH Assembly."

AMENDMENT XXI

The Article IX.2.(1)c) of the Federation Constitution is being erased.

AMENDMENT XXII

The Article IX.4.(1) of the Federation Constitution is being changed and says:

" (1) The first elections for the House of Representatives, House of People and canton legislative bodies and municipality councils are to be conducted according to the Annex III of the General Framework Agreement.

Later elections are to be conducted according to the elections laws passed by the Federation Assembly."

Text under (3) is being changed and says:

"(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 doesn't appear before the Tribunal after called by it, cannot run for or perform any public function in the Federation territory."

AMENDMENT XXIII

The Article IX.10. of the Federation Constitution is being changed and says:

"This Constitution is being applied in the municipalities of the city of Mostar and the city of Mostar itself while it is under the European Union administration, if not differently decided by the EU administrator, who must not differ from the Chapter II on human rights and basic freedoms.

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President of the Federation during the EU administration is to consult the administrator concerning the full implementation of this Constitution in the city of Mostar as soon as this administration period is over."

AMENDMENT XXIV

Sarajevo - hasn't agreed upon

AMENDMENT XXV

The Article IX.11. of the Federation Constitution is being changed and says:

"(1) The Constitutional Assembly of the Federation, consisted of the representatives of the R BiH Assembly elected at the 1990. elections, continues to work until the Federation Assembly is not constituted according to the Annex III and IV of the General Framework Agreement.

(2) In the period until the establishing of the BiH Presidency according to the Annex III and IV of the General Framework Agreement, civil commanding over the BiH Army, including appointment of military officers, will be performed by the President of the Presidency of BiH, and civil commanding over the Croatian Defence Council, including the appointment of military officers will be performed by the president or the Vice-president of the Federation belonging to the Croatian people.

(3) Until the federal, canton and municipality officials are not elected in the transitional period according to the Article IX.3. , the present administrative arrangements will remain in force within the Federation, except of the municipalities of the city of Mostar and the city of Mostar itself, which will be administrated by the EU administrator trough the period determined by the EU and both President and Vice-president Federation."

AMENDMENT XXVI

In the annex on the Federation Constitution, after the item 21. the new item is being added:

"22. Framework convention for protection of national minorities from 1994."

A P P E N D I X

Proposed amendments on which no agreement was reached (proposals as of 18 May 1996)

Article III.1.d of the Constitution (Amendment VIII):

Croat proposal: " organisation of trade, including customs within the Federation, rights regarding industrial ownership, standardisation of manufacturing, securities and communication within the Federation excluding international trade and customs policy which are within the competence of Bosnia and Herzegovina,"

Bosniac proposal: "Trade securities and communication within the Federation,"

Article IV.B.7.a and b of the Constitution (Amendment XIII):

In Article IV.B.7.a of the Constitution of the Federation of Bosnia and Herzegovina the text under a) (I) is amended to read:

version 1 [Croat proposal]:

"a) (I) The nomination of the Government, military officers, judges of federal courts in accordance with Articles IV.B.5, IV.B.8 and IV.C.6."

version 2:

"a) (I) The nomination of the Government, judges of federal courts in accordance with Articles IV.B.5 and IV.C.6."

version 3 [Bosniac proposal]:

"a) (I) The nomination of the Government, proposing the members of the Presidency of Bosnia and Herzegovina from the territory of the Federation, the nomination of military officers, as well as nominating judges of federal courts in accordance with Article IV.B.5, IV.B.8 and IV.C.6."

The text under a) (II) is deleted (discharged in accordance with the above-mentioned versions).

Article IV.B.8 of the Constitution (Amendment XIV):

Article IV.B.8 of the Constitution of the Federation of Bosnia and Herzegovina is amended to read:

version 1 [Bosniac proposal]:

"The President of the Federation, with the agreement of the Vice President of the Federation, initiates nominations of heads of diplomatic missions from the territory of the Federation, and initiates nominations of officers of the armed forces of the Federation. For nominating officers of the armed forces of the Federation, the approval of the majority of each house of

parliament of the Federation is necessary, under the condition that for approving nominated members of the Joint Staff of the armed forces, there is a majority vote of Bosniac representatives and Croat representatives.”

version 2 [Croat proposal]:

“The President of the Federation, with the agreement of the Vice President of the Federation, proposes nominations for heads of diplomatic missions from the territory of the Federation, and nominates officers of the armed forces of the Federation. For nominating officers of the armed forces of the Federation, majority approval of each house of Parliament is necessary, under the condition that for approving nominated members of the Joint Staff of the armed forces, there is a majority vote of Bosniac representatives and Croat representatives in the House of Peoples.”

Amendment XXIV:

This proposal for an Amendment presumably refers to the status of Sarajevo under Art. IX.10. There in no text.