



Strasbourg, 7 April 2006

CDL(2006)025

Opinion 375/2006

Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

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

Part I

**Draft amendments
submitted by the Presidency
to the Parliamentary Assembly**

Part II

**Draft amendment
submitted to the Presidency**

PART I**Draft amendments submitted by the Presidency to the Parliamentary Assembly**

On the basis of Article X (1.) of the Constitution of Bosnia and Herzegovina (Annex 4 of the General Framework Agreement on Peace in Bosnia and Herzegovina), the Parliamentary Assembly of Bosnia and Herzegovina, at the _____ session of the House of Representatives, held on _____, 2006, and the session of the House of Peoples, held on _____, 2006, adopted the following:

Amendment I

In the Constitution of Bosnia and Herzegovina, Article III, item 1 shall be amended and shall read:

1. Competencies of the Institutions of Bosnia and Herzegovina.

Competencies of the institutions of Bosnia and Herzegovina:

- a. Defense and security
- b. Foreign policy
- c. Foreign trade policy
- d. Customs policy
- e. Monetary policy, as prescribed by Article VII
- f. Financing of the institutions and international obligations of Bosnia and Herzegovina
- g. Policy and regulation of migration, refugees, immigration and asylum
- h. Implementation of international and inter-entity criminal law enforcement regulations, including relations with Interpol
- i. Establishment and functioning of the BiH Court and the BiH Prosecutor's Office
- j. Establishment and operation of common and international communications
- k. Regulation of international and inter-Entity transportation
- l. Air traffic control
- m. Remaining competencies as regulated by law

After item 1. a new item 2. is introduced and shall read:

2. The shared competencies of the institutions of BiH are:

- a. Tax system
- b. Electoral process
- c. Judiciary
- d. Agriculture
- e. Science and technology
- f. Ecology
- g. Local self-governance
- h. Remaining competencies as regulated by law.

Previous *item* 2. “Competencies of the Entities” becomes *item* 3. In the current point 3.a), at the end of the text, instead of a period, a comma is introduced, and the following is added: “in accordance with European standards.”

Previous *item* 3. and 4. become *item* 4. and 5.

Previous *item* 5. becomes *item* 6.

After the current item 6.a), additional items 6.b) and 6.c) are inserted and shall read:

- b. Competencies that have been transferred to the State may be returned to the Entities with the unanimous consent of the State and both Entities.
- c. State institutions are responsible for negotiating, developing, adopting and implementing, and the functioning of laws necessary for the fulfillment of European standards, as well as political and economic conditions linked with European integration. The State shall ensure compliance with the principles, priorities, and demands set forth by the European Union in the phases before and after accession. The State will establish the necessary bodies by law and undertake the necessary measures and determine the necessary procedures for the fulfillment of all criteria for accession and membership in the European Union, which also includes the necessary mechanisms of coordination and cooperation with authorities at lower levels.

Previous item 5.b) of this paragraph becomes item 6.d).

Amendment II

In the Constitution of Bosnia and Herzegovina, Article IV shall be amended and shall read:

Parliamentary Assembly

1. General Principles

Legislative power for the State of Bosnia and Herzegovina shall be vested in the Parliamentary Assembly.

2. Structure and Election of the Parliamentary Assembly.

- a. The Parliamentary Assembly shall be comprised of the House of Representatives and the House of Peoples.
- b. The House of Representatives shall have 87 Members, of which three seats are guaranteed for those who are not members of the constituent peoples.
- c. Members of the House of Representatives shall be elected on the basis of the general and equal voting right, by secret voting, directly, and on the basis of the Election Law.
- d. The House of Peoples shall have 21 Members, of which seven are Bosniaks, seven are Croats, and seven are Serbs.

- e. Members in the House of Peoples shall be elected indirectly from the House of Representatives, on the basis of the general voting right, in accordance with the Election Law.

3. Term and Eligibility of Members.

- a. Members of the Parliamentary Assembly shall serve 4 year terms.
- b. Any eligible voter who has reached the age of 18, and who has voting right may serve as a Member of the Parliamentary Assembly.
- c. Members of the Parliamentary Assembly may not hold any other elected office or public position, during his/her mandate in the Parliamentary Assembly, in accordance with the Law on Conflict of Interests.

4. Parliamentary Rules of Procedure.

Each House shall adopt its Rules of Procedure.

5. President and Vice Presidents of the Houses of Parliamentary Assembly

- a. Houses of the Parliamentary Assembly shall have a President and two Vice Presidents and shall elect them, via a majority vote, from among its members. President and vice-presidents may not be from the same constituent people.
- b. The President of the House of Representatives of the Parliamentary Assembly shall represent the Parliamentary Assembly and is responsible for its functioning.
- c. The President of the House shall be responsible for the efficient functioning of the House, shall represent the House before other branches of the government, and perform other duties as defined by law and the House's Rules of Procedure.
- d. The Vice President of the House shall assist the President in his or her duties and perform other duties as defined by law and the Rules of Procedure.
- e. The President and Vice Presidents shall be elected to a four-year term, and shall be dismissed in the same manner they were elected.
- f. The Presidents of the House of Representatives, of the House of Peoples, and of the Council of Ministers may not be from the same constituent people.

6. Sessions of the Houses of the Parliamentary Assembly and session of the Parliamentary Assembly

- a. Sessions of the House shall be convened by the President of the House in accordance with the Rules of Procedure.
- b. Each House shall be convened in Sarajevo at the latest 30 days after the election.
- c. At the request of the President of the Parliamentary Assembly, the President of the Council of Ministers, the President of BiH, or one third (1/3) of the members of the Parliamentary Assembly that includes 1/3 of the members of each House, an extraordinary session of the Parliamentary Assembly shall be convened.

7. Competencies of the House of Representatives.

- a. The House of Representatives has competencies over all legislation.

- b. The House of Representatives shall:
 - i. Adopt constitutional amendments.
 - ii. Adopt legislation;
 - iii. Decide on sources and amounts of funds for the functioning of institutions and servicing international obligations of Bosnia and Herzegovina;
 - iv. Adopt the budget of BiH institutions and international obligations of BiH;
 - v. Ratify international agreements;
 - vi. Participate in election of the Presidency of BiH in accordance with the Constitution;
 - vii. Confirm the President of the Council of Ministers of BiH and Ministerial slates;
 - viii. Oversee the work of the Council of Ministers and other institutions that are accountable to the House in accordance with the Constitution and laws;
 - ix. Nominate and elect officials as defined by the Constitution and law;
 - x. Have all other powers and duties assigned by the Constitution and law.

8. Competencies of the House of Peoples

- a. Consideration of all laws that are adopted by the House of Representatives, that relate to the vital national interest. The House of Peoples has the right to vital national interest veto in accordance with paragraph 10 of this article.
- b. Shall adopt constitutional amendments.
- c. Participate in election of the President of Bosnia and Herzegovina and Vice-Presidents of Bosnia and Herzegovina in accordance with the Constitution.

9. Legislative Procedures.

- a. The Council of Ministers and Members of both houses of the Parliamentary Assembly may initiate legislation. Bills shall be introduced in the House of Representatives.
- b. All votes shall be open and recorded, unless otherwise determined by this Constitution and the rules of parliamentary procedure.
- c. Majority of all members of the House of Representatives shall constitute a quorum.
- d. All decisions in the Houses of Representatives will be made by the majority vote of those present and voting.
- e. The members of the House of Representatives shall exert maximum effort in order to make certain the majority includes no fewer than one-third of the votes of the members from the territories of each entity. If the majority does not include one-third of the votes of the members from the territories of each entity, then the President of the House and his Vice-Presidents, by working in a joint commission, shall endeavor to reach an agreement within three (3) from the date of vote. If those endeavors fail, the decisions will be made by the majority vote of those present and voting, providing that those votes 'against' do not include two-third (2/3), or more, of the members elected from each entity.
- f. Each caucus in the House of Peoples shall make decisions by simple majority.
- g. After they are adopted in the House of Representatives, all laws are forwarded to the House of Peoples. Every caucus of the constituent peoples is entitled within

- 15 days from the day of receipt of the law, if it considers that the law has violated a vital national interest, to initiate the procedure for the protection of Vital National Interest, by executing a veto. If the procedure for the protection of Vital National Interest is not initiated within the prescribed period of time, the law adopted in the House of Representatives becomes effective.
- h. Unless and until the veto is challenged, the appropriate caucus of the House of Peoples shall work to amend laws determined to be destructive to Vital National Interests so that they are no longer considered destructive.
 - i. If the appropriate caucus of the House of Peoples amends a law, the law must be resubmitted to the House of Representatives for confirmation, within 30 days from the date of veto.
 - j. The Parliamentary Assembly shall publish a complete record of its deliberations and shall, save in exceptional circumstances in accordance with its rules, deliberate publicly.
 - k. Legislative acts take effect after being published in the Official Gazette of Bosnia and Herzegovina.
10. Vital National Interests Veto.
- a. The constituent peoples of Bosnia and Herzegovina have an inherent right to protect their vital national interests.
 - b. Vital National Interests shall be protected through the Vital National Interests Veto.
 - c. Vital National Interests shall also be protected at the state level.
 - d. The Vital National Interest Veto may be invoked within the House of Peoples regarding:
 - i. The rights of all three constituent peoples to be represented in legislative, executive, judicial authorities, and to have equal rights to be involved in decision-making processes;
 - ii. The identity of a constituent people;
 - iii. Territorial organization;
 - iv. Organization of the bodies of public authority;
 - v. Education;
 - vi. Use of language and alphabet;
 - vii. National symbols and flags;
 - viii. Spiritual heritage, particularly the fostering and affirmation of religious and cultural identity and traditions;
 - ix. Preservation of the integrity of Bosnia and Herzegovina;
 - x. Public information systems;
 - xi. Amendments to BiH Constitution;
 - xii. Any issue declared to be a Vital National Interest by 2/3 of one of the caucuses in the House of Peoples.
 - e. Review of the Use of Vital National Interests Veto
 - i. The majority of delegates from one of the constituent peoples caucuses, for cases from items 10.d. from i. to xi., as well as 2/3 of the delegates from among the ranks of one constituent peoples for cases from item 10.d.xii may invoke the Vital National Interest Veto in the House of Peoples and request that it be included in the agenda in the House of Peoples. The constituent

peoples caucus that invokes the Vital National Interest Veto must produce a written explanation detailing why it invoked the Vital National Interest Veto within three (3) days from the day the request from the previous item was submitted.

- ii. If the majority of delegates of one of the other constituent peoples caucuses believe that the Vital National Interest Veto was invoked without a reason, they may submit an appeal before the Constitutional Court within 10 days from the day the written explanation was submitted.
 - iii. The Constitutional Court may decide, in accordance with state law and the Constitution, whether the Veto was invoked properly (procedural review), and whether the interest qualified as a vital national interest and whether it violates a vital national interest (review on the merits).
 - iv. The BiH Constitutional Court must make a decision and submit it to the Parliamentary Assembly within 15 days from the day it received the appeal.
 - v. If the Constitutional Court determines that the provisions of an adopted law are not harmful to the vital national interest, the law is considered passed the day the Constitutional Court announces its decision and becomes effective once it is published.
 - vi. If the Constitutional Court determines that the law is harmful to the vital national interest, the House of Representatives shall change the law so that it is not harmful to the vital national interest, and in accordance with the Constitutional Court ruling.
11. Dissolution of the Parliamentary Assembly
- a) The Parliamentary Assembly may dissolve itself in accordance with the Rules of Procedure.
 - b) The Parliamentary Assembly shall be dissolved when the House of Representatives fails to elect the President of the Council of Ministers (Prime Minister) after the third vote.

With these provisions, the provisions of Article IV of the BiH Constitution are modified, except for paragraph 1., item 2, "House of Representatives" in which the number: "42" is replaced by number: "87", while the remaining text of paragraph 1. remains unchanged.

Amendment III

In the Constitution of Bosnia and Herzegovina, Article V paragraph 1. and items 1., 2., and 3. shall be amended and shall read:

Presidency

Bosnia and Herzegovina has a Presidency, which is comprised of a President and two Vice-presidents. The President of the BiH Presidency is the President of Bosnia and Herzegovina (hereinafter: the President), and the Vice-presidents in the Presidency are Vice-presidents of Bosnia and Herzegovina (hereinafter: Vice-presidents). The President and Vice-presidents must not be from the same constituent people.

1. The President shall work cooperatively with the Parliamentary Assembly and the Council of Ministers of Bosnia and Herzegovina as well as other BiH institutions to ensure the regular and efficient functioning of the State.

2. Election and the term of office

- a. Candidates for the Presidency members may be nominated by 20% of members in the House of Peoples or by 10% of members in the House of Representatives. Candidates shall be directly elected members of the Parliamentary Assembly. Members may support the nomination of one candidate only.
- b. Constituent peoples caucuses in the House of Peoples, by majority vote of each caucus, on the basis of nominated proposals, shall select one candidate each, which shall make up a slate of three candidates.
- c. The slate of three proposed candidates for President and two Vice-Presidents of BiH shall be forwarded to the House of Representatives for confirmation.
- d. The slate shall include at least one member of the Presidency from each entity and the maximum of one member of the Presidency shall come from each people.
- e. The term of office of the Presidency shall be 4 years, and the members may be elected for an additional consecutive term.
- f. The election of the President, by rotation or in another manner, shall be defined by the Parliamentary Assembly of Bosnia and Herzegovina.
- g. Before assuming the office, the Presidency members shall take an official oath in accordance with the law.

3. Procedures

The President and two Vice-presidents shall determine their Rules of Procedure.

4. Duties and Powers of the President.

- a. The President:
 - i. Shall represent the state;
 - ii. Shall sign and promulgate laws;
 - iii. Shall appoint and dismiss ambassadors and envoys, in accordance with State law;
 - iv. Shall sign international agreements in accordance with State law after ratification in the Parliamentary Assembly;
 - v. Shall confer decorations and other recognitions in accordance with State law;
 - vi. Shall accredit and receive ambassadors and envoys, in accordance with State law;
 - vii. Shall grant individual pardons in accordance with State law;
 - viii. May request convening of sessions of the Council of Ministers and Parliamentary Assembly, and propose the agenda for those sessions, and participate in all sessions;
 - ix. Shall nominate a candidate for President of the Council of Ministers, after consultation with the Vice Presidents and the Parliamentary Assembly;
 - x. Upon request, and at least once a year, submits reports to the Parliamentary Assembly about the expenses of the Presidency.

- xi. Performs other duties that may be necessary for carrying out his/her duties or those assigned to him/her by the Parliament, in accordance with the Constitution and law.
- b) The Presidency, which represents the unity of the state, shall, solely by consensus:
 - i. Regulate the Defense of Bosnia and Herzegovina, in accordance with State law;
 - ii. Appoint judges of the Constitutional Court, in accordance with the Constitution and State law;
 - iii. Appoint the members of the Board of Directors of the Central Bank of BiH.
- c) Presidential Request for Reconsideration of Legislation
 - i. Within one week of the passage of a law, the President may ask the Parliamentary Assembly to reconsider a law or portions of a law;
 - ii. The President must include the reasons and arguments to explain why he or she has requested the Parliamentary Assembly's reconsideration;
 - iii. The Parliamentary Assembly must consider and answer the President's arguments in writing;
 - iv. The President may request reconsideration only once per piece of legislation;
 - v. The President shall be obliged to sign the legislation as adopted by the Parliamentary Assembly.
- 5. Disability of the President/Vice Presidents in performing duties
 - a. In the case that the President is temporarily unable to fulfill his or her duties, the President shall appoint a Vice President to assume his or her duties.
 - b. The President/Vice President shall step down on the basis of disability if he or she is impaired to the extent that he or she is unable to fulfill the duties of the position and will not recover within a reasonable time.
 - c. If it is unclear whether the President / Vice President is able to fulfill his or her duties, the Constitutional Court shall make such determination at the request of the Council of Ministers, or 1/3 of the Members of the House of Representatives, or the other two Members of the Presidency jointly.
- 6. Impeachment of the President/Vice President
 - a. The House of Representatives shall have the power to impeach the President/Vice President.
 - b. President/Vice President may be impeached for incompetence and/or acts in violation of the Constitution, law, or binding norms of the international law.
 - c. The House of Representatives of the Parliamentary Assembly of BiH may introduce a motion to impeach the President/Vice President.
 - d. If 2/3 of the Members of the House of Representatives of the Parliamentary Assembly, which shall include minimum 1/2 of the members of the people from which the President/Vice-president comes, he or she shall immediately abdicate the office.
- 7. Resignation of the President/Vice Presidents

a. The President/Vice President may submit his or her resignation.

8. Succession

The election of a new President/Vice-president, whose mandate has ended in the manner enumerated in items 5, 6, or 7, shall be held within 15 days, in accordance with law.

9. Criminal Liability of the President/Vice Presidents

- a. The President/Vice President shall not be held criminally liable in domestic courts for acts performed pursuant to and in accordance with his or her official duties during his or her term of office.
- b. The Constitutional Court of Bosnia and Herzegovina shall determine whether an act committed by the President/Vice-president is pursuant to and in accordance with his or her official duties.

With these provisions, the provisions of Article V, items 1. 2. and 3. of the current Constitution of Bosnia and Herzegovina are replaced.

Amendment IV

In the Constitution of Bosnia and Herzegovina, Article V, item 4. shall be amended and shall read:

Council of Ministers

The Council of Ministers of Bosnia and Herzegovina is the institution of executive authority for the State of Bosnia and Herzegovina.

The Council of Ministers is accountable and responsible to the citizens and peoples of Bosnia and Herzegovina through the Parliamentary Assembly.

The President of the Council of Ministers, that is the Prime Minister, and the Ministers shall together comprise the Council of Ministers. The President of the Council of Ministers, that is the Prime Minister, shall chair the sessions of the Council of Ministers.

1. Election and Mandate

- a. The House of Representatives of the Parliamentary Assembly shall elect the Council of Ministers at the beginning of each new term of parliament.
- b. The structure of the Council of Ministers shall be determined by the Parliamentary Assembly.
- c. The President of the Council of Ministers/the Prime Minister may not assume power until the entire Council of Ministers is confirmed.
- d. Once constituted, the Council of Ministers shall select from its members two Deputy Prime Ministers.
- e. The President of the Council of Ministers/the Prime Minister and the Deputy Prime Ministers may not come from the same Constituent People.

2. Election of the President of the Council of Ministers (Prime Minister)

- a. The President of Bosnia and Herzegovina shall submit the candidate for the President of the Council of Ministers/the Prime Minister to the House of Representatives for confirmation, after consultations with political parties represented in the House of Representatives of the Parliamentary Assembly.
- b. Should the candidate for the President of the Council of Ministers/the Prime Minister fail to be confirmed, the President shall resubmit the candidate or propose another candidate within ten (10) days.
- c. If the candidate proposed by the President fails to be confirmed on the second ballot, members of the House of Representatives shall have the power to nominate candidates for the President of the Council of Ministers/the Prime Minister. The support of at least 1/6 of the members of the House of Representatives shall be required to nominate candidates for the President of the Council of Ministers/the Prime Minister.
- d. In the third ballot, the vote shall be taken on the President's candidate whose confirmation failed in the second ballot and the candidates nominated by House of Representatives. The vote shall be taken on the President's candidate first, and then in the order in which they were nominated, on the candidates nominated by the House of Representatives.
- e. The first candidate to receive the necessary majority shall be confirmed as the President of the Council of Ministers/the Prime Minister.

3. Election of Ministers

- a. The President of the Council of Ministers/the Prime Minister shall, after confirmation, present a slate of candidates for the Council of Ministers to the House of Representatives.
- b. Political parties that tend to form the coalition shall offer a list of qualified candidates to the President of the Council of Ministers/the Prime Minister to choose from.
- c. Should the proposed slate fail to be confirmed by the House of Representatives, the President of the Council of Ministers/the Prime Minister shall nominate a new slate. The process shall be repeated until the slate receives the required majority.
- d. If the House of Representatives cannot approve a slate of candidates within 30 days, the President of the Council of Ministers/the Prime Minister shall lose his mandate and the House of Representatives shall select a new President of the Council of Ministers/Prime Minister in accordance with the Constitution.
- e. All Ministers shall take office upon confirmation by the House of Representatives.

4. Term of Office

Term of office for the Council of Ministers begins on the day they are confirmed and ends on the day that a new Council of Ministers is confirmed.

5. Competencies

The Council of Ministers shall:

- a. Defend the Constitution and protect the constitutional rights and welfare of all citizens and peoples;
- b. Execute responsibilities of Bosnia and Herzegovina;
- c. Ensure sovereignty and territorial integrity, political independence and international subjectivity, and internal and external security of the State of Bosnia and Herzegovina in accordance with the Constitution and law;
- d. Conduct foreign policy of Bosnia and Herzegovina;
- e. Execute and enforce acts of the Parliamentary Assembly;
- f. Propose legislation to the Parliamentary Assembly;
- g. Propose the budget to the Parliamentary Assembly;
- h. Issue decrees and regulations necessary to implement the law;
- i. Direct the work of the Council of Ministers' institutions;
- j. Ensure the efficient and effective functioning of the State in accordance with the Constitution and law;
- k. Ensure that the State of Bosnia and Herzegovina meets its domestic and international obligations in accordance with the Constitution and law;
- l. Perform other duties assigned by the Constitution and the law.

6. Powers and Duties of the President of the Council of Ministers/the Prime Minister and Ministers

6.1. Powers and duties of the President of the Council of Ministers/the Prime Minister

- a. The President of the Council of Ministers/the Prime Minister shall be a Minister without portfolio and shall be responsible for the administration and efficient functioning of the Council of Ministers.
- b. The President of the Council of Ministers/the Prime Minister is jointly responsible with the Ministers for the work of the Council of Ministers.
- c. The President of the Council of Ministers/the Prime Minister shall:
 1. Establish the priorities, agenda, and the general direction of the work of the Council of Ministers;
 2. Chair the sessions of the Council of Ministers;
 3. Ensure the unity of the Council of Ministers;
 4. Organize and direct the work of the Council of Ministers;
 5. Report to the Parliamentary Assembly on the work of the Council of Ministers.
- d. The President of the Council of Ministers/the Prime Minister may suspend decrees and regulations issued by Ministers under (6.2.(b.4)) if they do not facilitate effective administration of the laws.

6.2. Powers and duties of the Ministers

- a. Ministers act collectively as the Council of Ministers and serve individually as the heads of their Ministries.
- b. Each Minister shall conduct the affairs of his or her Ministry independently and on his or her own responsibility, but shall be required to:

1. Execute the policies of the Council of Ministers and enforce the laws, regulations and acts of the Council of Ministers within the scope of his or her Ministry, and as assigned by the President of the Council of Ministers/the Prime Minister;
 2. Propose and make recommendations concerning legislation within the scope of his or her Ministry;
 3. Direct, coordinate, and supervise the activities of his or her Ministry;
 4. Issue regulations to facilitate the implementation and administration of laws concerning his or her Ministry and those affecting matters assigned to him or her by the President of the Council of Ministers/the Prime Minister, subject to the Constitution and laws of Bosnia and Herzegovina;
 5. Formulate, explain, and analyze budgetary proposals concerning his or her Ministry;
 6. Respond to inquiries from the Parliamentary Assembly concerning matters within his or her Ministry;
 7. Assist the President of the Council of Ministers/the Prime Minister in executing and enforcing policies of the Council of Ministers and laws.
7. Additional Provisions.
- a. Composition, decision-making, resignation, recall, no-confidence vote and other matters of concern pertinent to the functioning of the Council of Ministers shall be regulated by law.
 - b. Ministries and their competencies shall be determined by law.

With these provisions, the provisions of Article V, item 4. of the current Constitution of Bosnia and Herzegovina are replaced, except for item 4.b) of this article.

PART II
Draft amendment submitted to the Presidency

Amendment

In the Constitution of Bosnia and Herzegovina, Article II, paragraphs 1; 2; 3; and 4, shall be amended and shall read:

1. General Provisions
 - a. All citizens and peoples of Bosnia and Herzegovina are equal before law.
 - b. Bosnia and Herzegovina is a social state that guarantees civil and political rights; economic, social, and cultural rights, ethnic/national?, and collective rights in accordance with international and European standards.
 - c. Fundamental rights and freedoms guaranteed by this Constitution and the rights guaranteed by international agreements and conventions to which Bosnia and Herzegovina is a signatory, shall be secured to all in Bosnia and Herzegovina without discrimination on any ground such as sex, age, race, skin color, language, religion, political or other opinion, nationality, social origin, national minority, property, birth, disability, or other status.
2. Mandatory international human rights agreements and conventions
 - a. Bosnia and Herzegovina shall respect human rights in accordance with international agreements and conventions of which it is a signatory.
 - b. International agreements and conventions which Bosnia and Herzegovina has ratified are binding for the state and shall have priority over all other laws and over this Constitution?, unless a law or this Constitution guarantees a higher standard of rights than guaranteed by applicable agreements and conventions.
 - c. The State/Bosnia and Herzegovina? shall ensure all human rights in accordance, or to a higher degree, with those rights guaranteed in all international agreements and conventions to which it is a signatory.
 - d. The rights and freedoms listed in the European Convention for the Protection of Human Rights and Fundamental Freedoms and in its Protocols shall directly be applied in Bosnia and Herzegovina and shall have priority over all other laws.
3. Catalogue of rights and freedoms

Rights and freedoms guaranteed by the Constitution include, but are not limited to:

3.1. Individual rights and freedoms

a) Fundamental rights and freedoms

All persons in Bosnia and Herzegovina shall be guaranteed the following fundamental rights and freedoms, as well as those enumerated in international agreements and conventions to which Bosnia and Herzegovina is a signatory:

1. The right to life;

2. The right not to be subjected to torture or to inhumane or to degrading treatment or punishment;
3. The right not to be held in slavery or servitude or to perform forced or compulsory labor;
4. The right to liberty and security of person;
5. The right to private and family life, home and privacy, and correspondence;
6. The right to marry and to found a family;
7. The right to property;
8. The right to education;
9. The right to freedom of movement and residence;
10. The right to enjoy respect and protection of personal dignity;
11. The right to an environment that is not detrimental to health and well-being;
12. Freedom of thought, conscience, and religion;
13. Freedom of expression;
14. Freedom of peaceful assembly and freedom of association with others;
15. Freedom from unreasonable search and detention.

b) Civil and political rights and freedoms

All citizens of Bosnia and Herzegovina shall be guaranteed the following civil and political rights and freedoms:

1. The right to effective legal remedy should the rights guaranteed by this Constitution be violated;
2. The right to appeal, including the right to submit an objection, proposal, and appeals before state authorities;
3. The right to form and belong to political parties;
4. The right to participate in public affairs;
5. The right to equal access to public services;
6. Free, general, and equal voting right at the age of 18;
7. The right to information necessary for the realization and protection of rights vested in the state or other persons;
8. The right to refuse to testify if such testimony could instigate a criminal procedure against the person testifying;
9. The right to a fair trial in civil and criminal cases and all other rights related to criminal procedure;
10. The right to be considered innocent for a criminal act until a binding court ruling determines guilt;
11. No one shall be prosecuted for an act, which is not regarded a criminal act under law at the time when the act was committed.
12. Detention may only last as long as prescribed by law;
13. A person who is on reasonable grounds suspected of violating law may be arrested and detained only when this is necessary for conducting criminal proceedings, or for the safety of people;
14. Freedom of movement may be limited by law only if this is necessary for conducting criminal proceedings, or for the protection, safety, or health of people;
15. Freedom of press and other means of communication is guaranteed;
16. Freedom of secrecy of correspondence and all other communication is guaranteed;

17. Everyone shall enjoy the right to legal defense whenever the rights or legitimate interests of a person are violated or endangered;
18. The death penalty shall be abolished.

c) Economic, Social and Cultural Rights and Freedoms

All persons in Bosnia and Herzegovina are guaranteed the following economic, social and cultural rights:

1. All individuals shall freely use the language of their choice and participate in cultural life.
2. All individuals are entitled to identify with the culture and ethnic group of their choice, however, no individual may be forced to identify with any culture or ethnic group.
3. All individuals shall freely practice the religion of their choice.
4. All individuals are entitled to education, social care, health system and health care, nutrition and home.
5. Each individual is free to choose his/her profession and occupation, and all positions and duties will be equally accessible to everyone, under the same conditions.
6. Employment may be terminated against the wish of an employee solely in the manner and under conditions prescribed by law and collective contracts.
7. Each employed individual is entitled to compensation in compliance with law and collective contracts.
8. The right to found trade unions and organizations and activities that relate to trade unions, is guaranteed.
9. Employed individuals are entitled to fair and adequate working conditions.
10. Employed individuals are entitled to strike in compliance with the conditions and procedures prescribed by law, as they are entitled to protect their collective, economic and social interests.
11. Individuals are entitled to entrepreneurship and free competition in the economy.
12. Freedom to scientific research is guaranteed.
13. Freedom of art is guaranteed.

4. Rights of National Minorities

- a. There shall be no discrimination against members of national minorities on the basis of their status of a member of a national minority.
- b. National minorities in Bosnia and Herzegovina are guaranteed the right to cherish their cultural heritage, to communicate in their language, to use their alphabet, to establish associations, and to establish and maintain educational and cultural institutions in compliance with law.
- c. National minorities are entitled to learn their language and to use their minority language in official communication, in compliance with law.
- d. The realization of the aforementioned rights of national minorities must not cause discrimination against other citizens.

5. Interpretation of Rights and Freedoms

- a. All provisions that relate to human rights and freedoms contained in this Constitution shall be broadly interpreted in such manner in which they promote the spirit, purpose and goal of rights and freedoms enumerated in this Constitution, so that they support the values that emphasize an open and democratic society based on human dignity, equality and freedom.
 - b. European and international laws shall be taken into account even in cases when the enumerated rights and freedoms are being interpreted.
 - c. Future rights or freedoms recognized or confirmed by civil law, customary law, and laws, must be in compliance with the rights and freedoms enumerated in this Constitution (working group is of the opinion that point c is redundant, taking into account Article X, paragraph 2 of the Constitution).
6. Limitations to Human Rights and Basic Freedoms Guaranteed by the Constitution
- a. Human rights and freedoms guaranteed by this Constitution may be limited solely by? law to the extent to which such limitation is reasonable and justifiable. Such limitations shall take into account all important factors, including the following:
 0. Nature of the right or freedom in question;
 0. Importance of the very purpose of this limitation;
 0. Nature and scope of this limitation;
 0. Relation between the limitation and its purpose; and
 0. Less restrictive means to fulfill the purpose.
 - b. No law may limit any basic human right or freedom guaranteed by this Constitution, except in the manner prescribed under point a. or any other provision of this Constitution.
7. The Ombudsman
- a. The ombudsman protects individual and collective rights.
 - b. The ombudsman exists at the level of the State of Bosnia and Herzegovina and is regulated by law.
 - c. The House of Representatives of the Parliamentary Assembly shall select the ombudsman and his/her two deputies in compliance with law.
8. Submission of Complaints to the Constitutional Court that Relate to Protection of Individual and Collective Rights???
- a. In case of violation of any of the individual rights, or in case of immediate danger of violation? of any of the rights of an individual, he/she is entitled to submit to the Constitutional Court a petition for instituting legal action for protection of the rights guaranteed to him/her by this Constitution.
 - b. The Constitutional Court shall decide on such petitions within sixty [60] days.
 - c. Political parties, municipal councils, city councils, civil society organizations and other legal entities may also submit a petition for instituting legal action before the Constitutional Court for the purpose of protecting the rights of individuals or groups, or both, when those rights that belong to them on the basis of this Constitution are violated, or when there is immediate danger of their violation.

- d. The Ombudsman may submit a petition as *amicus curiae* (friends of the Court) in the cases prescribed in this section.
- e. Regulations for submitting petitions for instituting legal action contained in this section are defined by law.???

Previous paragraphs 5, 6, 7 and 8 become paragraphs 9, 10, 11, and 12.