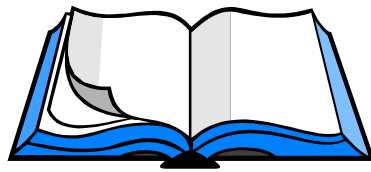




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CONSTITUTION OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

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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 *Official Gazette of the Federation of Bosnia and Herzegovina* 1/1994.
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PREAMBLE

I. ESTABLISHMENT OF THE FEDERATION	Arts. 1-6
II. HUMAN RIGHTS	
A. General	
B. Initial Appointment and Functions of the Ombudsmen	Arts. 1-7
III. DIVISION OF RESPONSIBILITIES BETWEEN THE FEDERATION GOVERNMENT AND THE CANTONS	Arts. 1-9
IV. STRUCTURE OF THE FEDERATION GOVERNMENT	Arts. 1-4
A. The Federation Legislature	
B. The Federation Executive	
C. The Judiciary	Arts. 1-21
V. THE CANTONAL GOVERNMENTS	Arts. 1-10
1. General Provisions	Arts. 1-23
2. The Cantonal Legislatures	
3. The Cantonal Executive	
4. The Cantonal Judiciary	Arts. 1-4
5. Special Regime for [Srednja Bosna] and [Neretva] Cantons	Arts. 5-7
VI. THE MUNICIPALITY GOVERNMENTS	Arts. 8-10
VIA. THE CITY AUTHORITIES	Art. 11
VIB. ORGANIZATION OF SARAJEVO	Art. 12
VII. INTERNATIONAL RELATIONS	Arts. 1-7
VIII. AMENDMENTS TO THE CONSTITUTION	ns. 1-7
IX. APPROVAL AND ENTRY INTO FORCE OF THE CONSTITUTION AND TRANSITIONAL ARRANGEMENTS	ns. 1-3
ANNEX: HUMAN RIGHTS INSTRUMENTS TO BE INCORPORATED INTO THE FEDERATION CONSTITUTION	Arts. 1-4
	Arts. 1-2
	Arts. 1-11

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

*Bosniacs, Croats and Serbs as constituent peoples, along with Others, and citizens of the Federation of Bosnia and Herzegovina, which is a constitutive part of the sovereign state of Bosnia and Herzegovina, 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.*³

I. ESTABLISHMENT OF THE FEDERATION

Article 1⁴

(1) The Federation of Bosnia and Herzegovina is one of the two entities composing the State of Bosnia and Herzegovina, and has all powers, competence and responsibilities which do not, according to the Constitution of Bosnia and Herzegovina, fall within the exclusive competence of the institutions of Bosnia and Herzegovina.

(2) Bosniacs, Croats and Serbs as constituent peoples, along with Others, and citizens of the Federation of BiH, shall equally organise the Federation of Bosnia and Herzegovina, defined in Annex II to the General Framework Agreement for Peace in Bosnia and Herzegovina.

Article 2

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

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. XXVII, originally "Peoples and citizens of the Federation of Bosnia and Herzegovina, which is a constitutive part of the sovereign state of Bosnia and Herzegovina,* 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***" as amended by Am. II, originally "The peoples and citizens of Bosnia and Herzegovina" and "hereby create a Federation"

⁴ Am. XXVIII, originally "(1) *Bosniacs and Croats as constituent peoples, along with Others,* and citizens of Bosnia and Herzegovina from the territories of the Federation of Bosnia and Herzegovina,** 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 composed*** 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****" as amended by Am. III, originally "Bosniacs and Croats, as constituent peoples (along with Others)", ** "of the Republic of Bosnia and Herzegovina", ****"of the territories with a majority of Bosniac and Croat population in the Republic of Bosnia and Herzegovina into a Federation, which is composed", *****"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 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 6⁵

(1) *The official languages of the Federation of Bosnia and Herzegovina shall be: Bosnian language, Croat language and Serb language. The official scripts shall be Latin and Cyrillic.*

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

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.*⁶

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.*⁷ 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;

⁵ Am. XXIX, originally “(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.”

⁶ 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”.

⁷ 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”.

(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

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*,⁸ 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*.⁹ All statements and obligations¹⁰ made under duress, particularly those relating to the relinquishment of rights to land or property, *shall be null and void*.¹¹

*The exercise of the right specified in item I of this Article shall be regulated by Federal legislation.*¹²

Article 5

The acquisition and termination of citizenship *of the Federation of BH*¹³ 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 her*¹⁴ 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;*¹⁵

(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.*¹⁶

⁸ Am. VI, originally "to be implemented in accordance with Federation legislation and Cantonal legislation consistent therewith".

⁹ 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".

¹⁰ Am. VI, originally "or commitments".

¹¹ Am. VI, originally "shall be treated as null and void."

¹² Added by Am. VI.

¹³ Added by Am. VII.

¹⁴ Added by Am. VII.

¹⁵ Added by Am. VII.

¹⁶ Am. VII, originally under (b) as "All citizens shall be entitled to hold the citizenship of another state".

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. The Ombudsmen of the Federation of Bosnia and Herzegovina¹⁷

1. General Provisions

Article 1¹⁸

(1) There shall be three Ombudsmen appointed by the Federation Parliament in accordance with Federation law. One Ombudsman shall be appointed from among each of the constituent peoples.

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

¹⁷ Am. XXX, originally "Initial Appointment and Functions of the Ombudsmen"

¹⁸ Am. XXX, originally "(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".

- (1) An Ombudsman is entitled to initiate proceedings in competent courts and to intervene in pending proceedings.¹⁹
(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 Ministers of the Federation, and to the OSCE.²⁰
- (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:*²¹

- (a) *conclusion of military agreements pursuant to the Constitution of Bosnia and Herzegovina; and cooperation with Standing Committee for Military Matters and Council of Ministers of Bosnia and Herzegovina and other institutions at state level responsible for military and defence matters.*²²
- (b) *Citizenship of the Federation,*²³

¹⁹ Three months from the adoption of amendment LII (Article 11e), the provisions of this Constitution related to the Human Rights Court of the Federation of Bosnia and Herzegovina are repealed.

²⁰ Am. LXVIII, originally "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 OSCE."

²¹ Am. VIII, originally "The Federation Government is to have exclusive responsibility for:" The original letter (a) "Conducting foreign affairs" is deleted.

²² Am. LXXXIX, originally "Organizing and conducting the defense of the Federation and protecting its territory, 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 in defense of Bosnia and Herzegovina."

- (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
- (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

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 “Combating 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”.

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 Legislature

a) The legislative authority in the Federation of Bosnia and Herzegovina shall be exercised by the House of Representatives and the House of Peoples.³⁰

1. The House of Representatives

Article 1³¹

(1) A minimum number of 4 representatives of one constituent people shall be represented in the House of Representatives.

(2) The House of Representatives shall consist of ninety-eight delegates.

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.

³⁰ Am. XXXI, originally "A. The Federation Legislature", text introduced.

³¹ Am. XXXII, originally "There shall be a House of Representatives, comprising 140 Members".

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 6³²

Composition of the House of Peoples and Selection of Members

- (1) *The House of Peoples of the Federation Parliament shall be composed on a parity basis so that each constituent people shall have the same number of representatives.*
- (2) *The House of Peoples shall be composed of 58 delegates; 17 delegates from among each of the constituent peoples and 7 delegates from among the Others.*
- (3) *Others have the right to participate equally in the majority voting procedure.*

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 8³³

- (1) *Delegates to the House of Peoples shall be elected by the Cantonal Assemblies from among their representatives in proportion to the ethnic structure of the population.*
- (2) *The number of delegates to the House of Peoples to be elected in each Canton shall be proportional to the population of the Canton, given that the number, structure and manner of election of delegates shall be regulated by law.*
- (3) *In the House of Peoples there shall be at least one Bosniac, one Croat, one Serb from each Canton which has at least one such delegate in its legislative body.*

³² Am. XXXIII, originally "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".

³³ Am. XXXIV, originally "

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".

(4) *Bosniac delegates, Croat delegates and Serb delegates from each Canton shall be elected by their respective representatives, in accordance with the election results in the legislative body of the Canton, and the election of delegates from among the Others shall be regulated by law.*

(5) *No delegate of the House of Representatives or councilor of the Municipal Council may serve as a member of the House of Peoples.*

Article 9

[deleted]³⁴

Article 10

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

3. General

Article 11³⁵

(1) Each House shall adopt by a majority vote its Rules of Procedure and elect, from among its members, a Speaker (Chairman) and two Deputy Speakers (Deputy Chairmen) of the Chamber, who may not come from among the same constituent people or from among the Others.

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

Members and Delegates of the Federation Legislature shall not be held criminally or civilly liable for any acts carried out within the scope of their duties in the Legislature of the Federation.³⁶

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.

³⁴ Am. XXXV, originally "The Delegates shall be elected from the members of the Cantonal legislatures".

³⁵ Am. XXXVI, originally "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".

³⁶ Am. LXIV, originally " (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.

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.

5. Definition of vital interests³⁷

Article 17a

Vital national interests of constituent peoples are defined as follows:

- *exercise of the rights of constituent peoples to be adequately represented in legislative, executive and judicial authorities;*
- *identity of one constituent people;*
- *constitutional amendments;*
- *organisation of public authorities;*
- *equal rights of constituent peoples in the process of decision-making;*
- *education, religion, language, promotion of culture, tradition and cultural heritage;*
- *territorial organisation;*
- *public information system,*

and other issues treated as of vital national interest if so claimed by 2/3rd of one of the caucuses of the constituent peoples in the House of Peoples.

6. Parliamentary procedure for the protection of vital interests³⁸

Art. 17b

(1) Laws or other regulations or acts introduced into the House of Representatives of the Federation of Bosnia and Herzegovina shall also be adopted in the House of Peoples of the Federation of Bosnia and Herzegovina.

(2) A Vital Interest Panel shall be established in the Constitutional Court deciding issues of vital interest, in the procedure in accordance with this Constitution. This Panel shall consider all issues of vital interests.

(3) The Vital Interest Panel shall be composed of 7 members, 2 from each constituent people and 1 from the group of Others. The judges shall be elected by the House of Representatives and the House of Peoples.

Article 18³⁹

Procedure for Laws related to a vital interest as defined in the list of amendment XXXVII⁴⁰

³⁷ Added by Am. XXXVII (heading and article 17a).

³⁸ Added by Am. XXXVIII (heading and article 17b).

³⁹ Am. XXXIX, originally "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".

⁴⁰ Heading added by Am. XXXIX.

1. *If more than one Chairman or Vice-Chairman of the House of Peoples claims that a law comes within the list of vital national interest as defined in Amendment XXXVII of the Constitution of the Federation of BiH, the law shall be put on the agenda of the HoP as a vital interest issue.*
2. *If only one Chairman or Vice-Chairman claims that the law falls within this list, of, a two thirds of the respective caucus of the House of Peoples may declare the issue concerned to be of a vital national interest. In this case the procedure followed is the one outlined under Amendment XL.*
3. *The Chairman and Vice-Chairmen of the House of Peoples have one week within which to decide.*
4. *If a majority of each caucus represented in the House of Peoples vote in favour of such laws or other regulations or acts these are deemed to be adopted.*
5. *If the House of Peoples agrees on amendments, the law, regulation or act is resubmitted to the House of Representatives for approval.*
6. *If no agreement can be reached in the House of Peoples or if approval is not given to proposed amendments, a Joint Commission composed of representatives of the House of Representatives and the House of Peoples shall be established. The Joint Commission shall be composed on a parity basis and shall decide by consensus. The Joint Commission shall seek to achieve the harmonisation of the terms of the law. If the terms are harmonised, the law shall be deemed to be adopted.*
7. *If no such harmonisation can be effected the law shall fail and the document shall be returned to the proponent for a new procedure. In that event the proponent may not resubmit the original law, regulation or act.*

Article 18a⁴¹

Procedure for Laws related to a vital interest if so decided by 2/3rd of one of the caucuses of the Constituent peoples in the House of Peoples

1. *In the event that two thirds of one of the caucuses of the constituent peoples in the House of Peoples decides that a law, regulation or act affects a vital national interest the law shall be considered by the House of Peoples.*
2. *If a majority of each caucus represented in the House of Peoples vote in favour of such laws or other regulations or acts these are deemed to be adopted.*
3. *If the House of Peoples agrees on amendments, the law, regulation or act is resubmitted to the House of Representatives for approval.*
4. *If no harmonisation can be established by the Joint Commission referred to in Amendment XXXIX, the Constitutional Court of the Federation of Bosnia and Herzegovina shall be addressed to decide finally whether the law in question relates to a vital interest of a constituent people.*
5. *A Vital Interest Panel of the Constitutional Court of the Federation of BiH shall decide by a 2/3rd majority within one week on the admissibility of such cases and within one month on the merits of cases held to be admissible.*
6. *In the event that the procedure under this Amendment is triggered by a 2/3 majority of one of the caucuses, the vote of at least two judges is needed for the Court to decide that it is a vital interest.*
7. *If the Court decides in favour of a vital national interest, the law, other regulation or act shall fail and the document shall be returned to the proponent for a new procedure. In that event the proponent may not resubmit the original law, regulation or act.*
8. *In the event the Court decides that no vital interest is involved, the law is deemed to be adopted/shall be adopted by simple majority.*

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.

⁴¹ Added by Am. XL (heading and Article 18a).

7.⁴² 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 two Vice-Presidents*⁴³, 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 *one of the Vice-President*⁴⁴s;
- (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) *[deleted]*⁴⁵;
- (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.*⁴⁶
- (g) ...⁴⁷
- (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.*⁴⁸
- (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

Article 1⁴⁹

⁴² Note by OHR consolidator: due to headings 5. and 6., introduced by Am. XXXVII and XXXVIII, the original 5. had to be changed in 7.

⁴³ Am. LXIX, originally " Vice-President"

⁴⁴ Am. LXIX, originally " Vice-President"

⁴⁵ Am. XCIV, originally " authorizing any use of military force by the Federation, which must be in accordance with international law"

⁴⁶ Am. X, originally "authorizing Cantons to conclude agreements with states and international organizations".

⁴⁷ Am. X deleted original letter (g), reading "guiding the Prime Minister in the conduct of foreign affairs".

⁴⁸ Am. X, originally "approving treaties by majority vote".

⁴⁹ Am. XLI, originally "The President of the Federation shall represent the Federation and shall be the head of the Federal executive power" as amended by Am. XI, originally "The President shall be the head of state."

The President of the Federation shall have two Vice-Presidents who shall come from different constituent peoples. They shall be elected in accordance with this Constitution.

Article 2⁵⁰

(1) In electing the President and two Vice-presidents of the Federation, at least one third of the delegates of the respective Bosniac, Croat or Serb caucuses in the House of Peoples may nominate the President and two Vice-presidents of the Federation.

(2) The election for the President and two Vice-presidents of the Federation shall require the joint approval of the list of three nominees, by a majority vote in the House of Representatives, and then by a majority vote in the House of Peoples, including the majority of each constituent people's caucus.

(3) If no list of the nominees receives the required majority in both Houses the procedure shall be repeated.

(4) If one of the Houses rejects the joint nominees' list in the repeated procedure as well, it shall be considered that the nominated persons have been elected by approval of the list in only one house.

(5) The President and two Vice-presidents of the Federation shall be elected for a four-year term of office."

Article 3

(1) The President or a Vice-President⁵¹ 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 a Vice-President⁵² 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.⁵³

2. The Cabinet

Article 4⁵⁴

Minimum representation in the Government of the Federation of Bosnia and Herzegovina in a transitional period until Annex 7 is fully implemented

(1) The Government of the Federation (Prime Minister/President of the Government and 16 ministers) shall be composed of 8 Bosniac, 5 Croat and 3 Serb ministers. One Other may be nominated by the Prime Minister/President of the Government from the quota of the largest constituent people. The Government shall have a Prime Minister/president of the Government who shall have two Deputy Prime Ministers from different constituent peoples selected from among the Ministers.

⁵⁰ Am. XLII, originally "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".

⁵¹ Am. LXX, originally "Vice-President"

⁵² Am. LXX, originally "Vice-President"

⁵³ Am. XLIII deleted remainder of original wording of this paragraph, reading "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 serve as Vice-President, for the necessary period".

⁵⁴ Am. XLIV, originally "The Federation Government shall consist of a Prime Minister, who shall be the president of the Government,* 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**", as amended by Am. XII, originally "*The Cabinet shall consist of a Prime Minister, who shall be the head of government" and "**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) After Annex 7 is fully implemented, a minimum of 15% of the members of the Government must come from one constituent people. A minimum of 35% of the members of the Government must come from two constituent peoples. One member of the Government must come from the group of the Others.

Article 5 **Election of the Government**

(1) President of the Federation, in agreement with both Vice-presidents of the Federation, shall appoint the Government of the Federation – upon consultation with the Prime Minister or a nominee for that office. The Government shall be elected after its appointment has been confirmed by a majority vote of the House of Representatives of the Federation. Any vacancy shall be filled under the same procedure.⁵⁵

(2) If the House of Representatives does not confirm the appointment of the Government, the President of the Federation in agreement with the Vice-presidents of the Federation, and upon consultation with the Prime Minister or a nominee for that office, shall repeat the procedure referred to in Paragraph 1 of this Article.⁵⁶

(3)⁵⁷ 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 Ministers⁵⁸ upon the proposal of the Prime Minister.

Article 6

[deleted]⁵⁹

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 the Constitutional Court of the Federation upon proposal of candidates by the High Judicial and Prosecutorial Council*⁶⁰, in accordance with Articles IV.B.5, IV.B.8, and IV.C.6;

(ii) [deleted]⁶¹

(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,⁶²

⁵⁵ Am. XLV, originally "(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".

⁵⁶ Added by Am. XLV (heading and paragraph 2).

⁵⁷ Am. XLV, originally paragraph 2.

⁵⁸ Am. LXXI, originally "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."

⁵⁹ Am. XLVI, originally "(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".

⁶⁰ Am. LVI, originally "judges of Federation courts".

⁶¹ Am. XC, originally " serving as commander-in-chief of the military of the Federation, subject to the provisions on civilian command in Article V.5(a) of the Constitution of Bosnia and Herzegovina."

(vi) ...⁶³

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

(b) The *Vice-Presidents*⁶⁴ 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.

(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) ...⁶⁵

(e) The *Deputy Prime Ministers*⁶⁶ shall be responsible for:

(i) *serving as a Minister*;⁶⁷

(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;

⁶² Am. XIII, originally "signing and ratifying international agreements on behalf of the Federation, consistent with Article IV.B.7(d)".

⁶³ Am. XIII deleted original number (vi), reading "receiving and accrediting ambassadors; and".

⁶⁴ Am. LXXII, originally "Vice-President"

⁶⁵ 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)."

⁶⁶ Am. LXXII, originally "Deputy Prime Minister"

⁶⁷ Am. XIII, originally "serving alternately as either Defense Minister or Foreign Minister"

(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) *[deleted]*⁶⁸

Article 8

*[deleted]*⁶⁹

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

*[deleted]*⁷⁰

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.II 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) deleted⁷¹.

Article 2

⁶⁸ Am. LXXII, deleted original letter (g) reading "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 (iii) serving as Minister should the latter be unable to serve or the position is vacant, until a new Minister takes office.

⁶⁹ Deleted by Am XCI, originally " 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."

⁷⁰ Am. LXV deleted article reading " 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."

⁷¹ Deleted by Am. LII, Article 11e

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 *and organization of all courts*⁷² 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) *The Judiciary is autonomous and independent from the executive and legislative powers of the Federation.*
- (4) *The High Judicial and Prosecutorial Council of the Federation of Bosnia and Herzegovina shall ensure the autonomy, independence, impartiality, competence and efficiency of the judiciary and of the prosecutorial service in the Federation. The responsibilities of the High Judicial and Prosecutorial Council shall include, but shall not be limited to, the appointment, discipline and removal of judges, apart from the Judges of the Constitutional Court of the Federation, and shall also include prosecutors and deputy prosecutors in the Federation. The composition and additional responsibilities of the High Judicial and Prosecutorial Council shall be defined by law.*⁷³
- (5) 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 6⁷⁴

- (1) *The Judges of the Supreme Court, including the Court President, shall be selected, appointed, disciplined and removed by the High Judicial and Prosecutorial Council in accordance with law.*
- (2) *The Judges of the Constitutional Court shall be nominated by the President of the Federation with the concurrence of the Vice-Presidents, and shall require for appointment the approval of a majority of the present and voting members of the House of Peoples.*
- (3) *Judges of the Supreme Court, apart from reserve judges, shall, save as hereinafter set out, be appointed for life subject to resignation, retirement or removal for cause by the High Judicial and Prosecutorial Council in accordance with the law. Judges of the Supreme Court may likewise exceptionally cease to hold office pursuant to a selection process following restructuring of the Supreme Court during the transitional period to be defined in the Law establishing the High Judicial and Prosecutorial Council of the Federation. The mandatory retirement age for Judges of the Supreme Court shall be defined by Law.*

⁷² Added by Am. LVII

⁷³ Added by Am. LVIII.

⁷⁴ Am. XLVII deleted the introductory sentence and Item (a), reading "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". The original Items (b) and (c) became Items (a) and (b); Am. LIX replaced AM. XLVII.

- (4) *The Judges of the Constitutional Court shall serve until 70 years of age, unless they resign or they are removed for cause by consensus of the Judges of the same Court.*

Article 7

- (1) *The salary and other emoluments of a Judge may not be diminished during the period of his/her judicial office except as a result of disciplinary proceedings in accordance with law.*
- (2) *The salaries and other terms of service, including the immunity of all the Judges of the Courts of the Federation shall be determined by law.*⁷⁵

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 be composed of nine judges, of whom at least two come from all three constituent people each and one from the group of the Others.*⁷⁶

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;*⁷⁷

(d) *between any municipality and any city;*⁷⁸

(e)⁷⁹ between any Municipality and its Canton or the Federation Government; and

(f)⁸⁰ between or within any of the institutions of the Federation Government.

- (2) The Constitutional Court shall:

(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;

⁷⁵ Am. LX, originally: (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.

⁷⁶ Am. XLVIII, originally "The Constitutional Court shall consist of nine Judges".

⁷⁷ Added by Am. XIV.

⁷⁸ Added by Am. XIV.

⁷⁹ Lettering changed by Am. XIV.

⁸⁰ Lettering changed by Am. XIV.

(b) *At the request of the Prime Minister, of the canton 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.*⁸¹

(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, of the canton 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.*⁸²⁸³

- (3) The Constitutional Court shall also decide constitutional questions presented by the Supreme Court or a Cantonal court that arise in the course of a proceeding currently pending before that Court.⁸⁴

*The Constitutional Court shall decide questions, which arise under legislation regulating immunity in the Federation.*⁸⁵

Article 11

Whenever the Supreme 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).⁸⁶

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.

(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

⁸¹ Am. LXXIII, originally "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."

⁸² 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."

⁸³ Am. LXXIII, originally "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."

⁸⁴ Three months from the adoption of amendment LII (Article 11e), the provisions of this Constitution related to the Human Rights Court of the Federation of Bosnia and Herzegovina are repealed.

⁸⁵ Added by Am. LXVI

⁸⁶ Three months from the adoption of amendment LII (Article 11e), the provisions of this Constitution related to the Human Rights Court of the Federation of Bosnia and Herzegovina are repealed.

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.⁸⁷
- (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 Court⁸⁸

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.

⁸⁷ Three months from the adoption of amendment LII (Article 11e), the provisions of this Constitution related to the Human Rights Court of the Federation of Bosnia and Herzegovina are repealed.

⁸⁸ Three months from the adoption of amendment LII (Article 11e), the provisions of this Constitution related to the Human Rights Court of the Federation of Bosnia and Herzegovina are repealed.

(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.

D. Distribution of key functions in the Federation Authority Structure⁸⁹

Article 1

The Prime Minister and the Deputy Prime Ministers may not come from the same constituent people.

Out of the following positions not more than two may be filled by representatives of any one constituent people or of the group of the Others:

1. *Prime Minister/President of the Government*
2. *Speaker of the House of Representatives*
3. *Speaker of the House of Peoples*
4. *President of the Supreme Court*
5. *President of the Constitutional Court*
6. *Federation Prosecutor.*

Article 1a⁹⁰

Following the election of the Legislature of the Federation and appointment of the Prime-Minister, the Speaker of the House of Representatives, the Speaker of the House of Peoples, the President of the Constitutional Court, the President of the Supreme Court and the Prosecutor of the Federation of Bosnia and Herzegovina shall be chosen in accordance with the distribution of functions provided in Article IV.D.1.

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.
- (c) *ensure that constituent peoples and members of the group of Others shall be proportionally represented in Ministries of the Cantons. Such proportionate representation shall follow the 1991 census until Annex 7 is fully implemented.⁹¹*

⁸⁹ Added by Am. XLIX (the whole sub-chapter).

⁹⁰ Added by Am. LXXIV

⁹¹ Added by Am. LXXV

Article 2

- (1) *Each canton may confer its responsibilities to a municipality or city in its territory, or to the federal authority.*⁹²
- (2) *Each Canton may delegate functions concerning education, culture, tourism, local business and charitable activities,⁹³ 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.*⁹⁴
- (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.*⁹⁵

Article 3

Cantons [*deleted*⁹⁶] 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

- (1) *Each Canton shall have a Legislature consisting of one House comprising a number of Legislators determined in proportion to its population.*⁹⁷
- (2) The term of Cantonal Legislators shall be *four*⁹⁸ 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.
- (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

⁹² Am. XV, originally "Each Canton is authorized to delegate or confer its responsibilities to Municipalities in its territory or to the Federation Government."

⁹³ Am. XV, originally "organizations".

⁹⁴ 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."

⁹⁵ Am. XV, originally "only with the consent of the Legislature of the Federation."

⁹⁶ Am. LXXXVI, originally with a Bosniac-majority or a Croat-majority population"

⁹⁷ Am. LXXXVII, originally "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."

⁹⁸ Am. LIII, originally "two".

The Cantonal Legislature shall:

- (a) prepare and by a two-thirds majority vote approve the Cantonal Constitution;
- (b) *[deleted]*⁹⁹
- (c).....; ¹⁰⁰
- (d) *[deleted]*¹⁰¹
- (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, by a majority vote, adopt rules of procedure.*
- (2) *A caucus of a constituent people shall be established, provided there is at least one delegate of such constituent people in the Cantonal Legislature.*
- (3) *Each caucus shall nominate one candidate from among its members for the post of Chairman or Vice-Chairman, who must be confirmed by the Cantonal Legislature.*
- (4) *The Cantonal Legislature shall confirm the candidates in accordance with its Rules of Procedure. In the event that a constituent people is not represented in the Legislature, one of the positions of Vice-Chairman shall remain vacant.*
- (5) *The three candidates confirmed by the Cantonal Assembly shall decide among themselves who shall occupy the post of Chairman.*¹⁰²
- (6) 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.
- (7) Laws of the Cantonal Legislatures shall take effect as specified therein but no sooner than when disseminated to the public;
- (8) *Legislators in the Cantonal Legislatures shall not be held criminally or civilly liable for any acts carried out within the scope of their duties in the Cantonal Legislatures.*¹⁰³
- (9) Cantonal Legislatures may conduct investigations and for this purpose may compel the production of testimony and documents.

Vital interest protection mechanism¹⁰⁴

Article V.2.7a

- 1) *Vital interests of constituent peoples to be protected in the Cantons shall be those defined in Article IV.5.17.a of this Constitution. The caucuses referred to in Article IV.5.17.a of this Constitution shall, for the purpose of the Cantons, be the caucuses established in accordance with Article V.2.7., paragraph 2 of this Constitution.*

⁹⁹ Am. LXXVIII, originally " elect the Cantonal President, as provided in Article V.8;"
¹⁰⁰ Am. LXI deleted original letter (c), reading "elect Cantonal Judges, as provided in Article V.11"
¹⁰¹ Am. LXXVIII, originally "specify the jurisdiction of Cantonal and Municipal courts"
¹⁰² Am. LXXIX deleted original paragraph (1) "Each Cantonal Legislature shall elect from among its members its Chairman and shall adopt its rules of procedure" and inserted paragraphs 1-5.
¹⁰³ Am. LXVII, originally " 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."
¹⁰⁴ Added by Am. LXXX

- 2) *If more than one Chairman or Vice-Chairman of a Cantonal Legislature claims that a law comes within the list of vital interests as defined in the list of Article IV.5.17.a of this Constitution, adoption of such law shall require:*
 - *a majority vote within each caucus of the constituent peoples represented in the given Cantonal Legislature.*
- 3) *The Chairman and Vice-Chairmen of the Cantonal Legislature must decide, within one week, whether a law, regulation or act comes within the list referred to in Paragraph 2 of this Article.*
- 4) *If only one Chairman or Vice-Chairman claims that a law, regulation or act falls within the list of vital interests, a two-thirds majority of the respective caucus of one of the constituent peoples of the given Cantonal Legislature may declare the issue concerned to be an item within the list of vital interests.”*

Article V.2.7b

- 1) *In case a two-thirds majority of one of the caucuses of the constituent peoples in the Cantonal Legislature decides that a law, regulation or act affects a vital national interest, adoption of such law, regulation or act shall require a majority vote within each caucus of constituent peoples represented in the Cantonal Legislature.*
- 2) *If the majority referred to in Paragraph 1 of this Article is not reached, the issue shall be referred to the Constitutional Court of the Federation of Bosnia and Herzegovina, which shall take a final decision whether the law, regulation or act in question relates to a vital interest of a constituent people.*
- 3) *In such a case as described in this Article, the Constitutional Court of the Federation shall proceed in the manner provided for in Article IV.6.18.a of this Constitution.*
- 4) *If the Court decides in favour of a vital interest, the law, regulation or act shall fail and the document shall be returned to the proponent for a new procedure. In that event, the proponent may not re-submit the original text of the law, regulation or act.*
- 5) *In the event that the Constitutional Court decides that no vital interest is involved, the law, regulation or act is deemed to be adopted / shall be adopted by simple majority.*

3. The Cantonal Executive

Article 8

- (1) *Constituent peoples and members of the group of Others shall be proportionately represented in the Government. Such proportionate representation shall follow the 1991 census until Annex 7 is fully implemented, in accordance with Article IX.11.a of this Constitution”.*
- (2) *A Cantonal Prime Minister candidate shall be nominated by the Chairman of the Cantonal Legislature in consultation with the Vice-Chairmen. The Prime Minister-candidate shall propose Ministers. There shall be no Deputy Ministers.*
 - (1) *Ministers, together with the Prime Minister, constitute the Cantonal Government. Approval of the Cantonal Government by the Cantonal Legislature shall be by majority vote.*
 - (2) *Notwithstanding paragraph 3 of this Article, in cantons where two or more constituent peoples each constitute greater than 30 percent of the cantonal population according to the last census, the Government shall be approved by the Cantonal Legislature by a two-thirds majority.*
 - (3) *The Government shall take office after approval by the Cantonal Legislature.¹⁰⁵*

¹⁰⁵ Am. LXXXI, originally " (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 8 a¹⁰⁶

Ministers shall be responsible to the Prime Minister and to the Cantonal Legislature. The Prime Minister shall also be responsible to the Cantonal Legislature.

Ministers shall have ultimate responsibility for the work of their respective Ministries.

The Government shall resign if, at any time, a vote of no confidence is passed by the Cantonal Legislature.

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 [*deleted*]¹⁰⁷ 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.
- (f) *All decisions taken by the Government shall be by simple majority of those present and voting.*¹⁰⁸

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) *Cantons shall have courts, which shall have appellate jurisdiction over the courts of their Municipalities and original jurisdiction over matters not within the competence of those courts and as provided in legislation.*
- (2) *Judges of Cantonal Courts, including the Court Presidents, shall be selected, appointed, disciplined and removed by the High Judicial and Prosecutorial Council in accordance with the law.*
- (3) *Judges of Cantonal Courts, apart from reserve judges, shall be appointed for life subject to resignation, retirement or removal for cause by the High Judicial and Prosecutorial Council in accordance with the law of the Federation. Judges of Cantonal Courts may likewise exceptionally cease to hold office pursuant to a selection process following restructuring of cantonal courts during the transitional period to be defined in the law establishing the High Judicial and Prosecutorial Council. The mandatory retirement age for Judges of Cantonal Courts shall be defined by Law of the Federation. Terms of service, including immunity, of the Judges of Cantonal Courts shall be determined by the law of the Federation. The salary and other emoluments of a Judge may not be diminished during the period of his/her judicial office except as a result of disciplinary proceedings in accordance with law.*¹⁰⁹

¹⁰⁶ Added by Am. LXXXII

¹⁰⁷ Am. LXXXIII, originally "the investigation and prosecution of crimes against Cantonal law,"

¹⁰⁸ Added by Am. LXXXIII

¹⁰⁹ Am. LXII, originally: (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.

- (4) *Constituent peoples and Others shall be proportionately represented in cantonal and municipal courts. Such representation shall follow the 1991 census until Annex 7 is fully implemented, in accordance with Article IX.11a of this Constitution.*¹¹⁰

[deleted]¹¹¹

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.

(c) *Constituent peoples and Others shall be proportionately represented in municipal authorities. Such representation shall follow the 1991 census until Annex 7 is fully implemented, in accordance with Article IX.11.a of this Constitution.*¹¹²

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.

¹¹⁰ Added by Am. LXXXIV

¹¹¹ Am. LXXXV deleted all provisions relating the special regime status cantons, originally " 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 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;*

(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.*

¹¹² Added by Am. LXXXVI

(2) The term of the members of Municipal Governing Councils shall be *four*¹¹³ 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 Councilor.

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 7¹¹⁴

(1) *The Municipal courts, which may be established for the territory of one or more municipalities, shall have jurisdiction over all civil and criminal matters, except to the extent that the original jurisdiction is assigned to another court by this or the Cantonal Constitution or by a law of the Federation or of the Canton.*

(2) *Municipal Courts shall be established by the Cantonal legislation and be funded by the Cantons.*

¹¹³ Am. LIV, originally "two".

¹¹⁴ Am. LXIII, originally " (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.

- (3) *Judges of Municipal Courts, including Presidents of the Courts, shall be selected, appointed, disciplined and removed by the High Judicial and Prosecutorial Council of the Federation in accordance with the law.*
- (4) *Judges of Municipal Courts, apart from reserve judges, shall be appointed for life subject to resignation, retirement or removal for cause by the High Judicial and Prosecutorial Council in accordance with the law. Judges of Municipal Courts may likewise exceptionally cease to hold office pursuant to a selection process following restructuring of municipal courts during the transitional period to be defined in the law establishing the High Judicial and Prosecutorial Council. The mandatory retirement age for Judges of Municipal Courts shall be defined by Law. Terms of service, including immunity, shall be determined by Law of the Federation. The salary and other emoluments of a Judge may not be diminished during the period of his/her judicial office except as a result of disciplinary proceedings in accordance with law.*

VI. A. CITY AUTHORITIES ¹¹⁵

(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) *[deleted]*^{116, 117}

(3)¹¹⁸ *The city shall have a statute which must be in accordance with this Constitution, Cantonal Constitution and Cantonal legislation*

(4)¹¹⁹ *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.*¹²⁰

(5)¹²¹ *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)¹²² *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)¹²³ *The city shall secure revenues by taxation, borrowing and other means, in accordance with law.*

¹¹⁵ Added by Am. XVI.

¹¹⁶ Added by Am. XXV.

¹¹⁷ Am. LXXXVII, originally "The seat of the Canton with a special regime shall be organized on the strength of the same principles."

¹¹⁸ Numbering was changed by Am. XXV.

¹¹⁹ Numbering was changed by Am. XXV.

¹²⁰ Added by Am. XXV.

¹²¹ Numbering was changed by Am. XXV.

¹²² Numbering was changed by Am. XXV.

¹²³ Numbering was changed by Am. XXV.

VI.B. ORGANIZATION OF SARAJEVO¹²⁴

- (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

International relations of the Federation shall have to be in accordance with continuity, sovereignty, territorial integrity and international personality of Bosnia and Herzegovina, according to Article III of the Constitution of Bosnia and Herzegovina¹²⁵

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*¹²⁶ 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) *The treaties and agreements with states and international organizations shall be signed in the name of the Federation by the Federation President. They shall only enter into force for the Federation only if ratified by the Parliament of the Federation, with the prior approval of the Parliamentary Assembly of Bosnia and Herzegovina, except to the extent that the Parliamentary Assembly of Bosnia and Herzegovina provide by law that these types of international treaties and agreements do not require such approval.¹²⁷*

(4) 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.*¹²⁸

VIII. AMENDMENT OF THE CONSTITUTION

¹²⁴ Added by Am. XXVI (the whole sub-chapter).

¹²⁵ Am. CXII, originally "International relations of the Federation shall have to be in accordance with continuity, sovereignty, territorial integrity and international personality of Bosnia and Herzegovina, according to Article III of the Constitution of Bosnia and Herzegovina".

¹²⁶ Added by Am. XVIII.

¹²⁷ Am. XCIII, originally "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 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."

¹²⁸ Am. XIX, originally "by international law, and shall do so if so directed by the Federation Legislature."

Article 1¹²⁹

(1) Amendments to the Constitution may be proposed by the President of the Federation, in agreement with the Vice-presidents, the Federation Government, a majority of delegates in the House of Representatives or a majority of Bosniac delegates, a majority of Croat delegates and a majority of Serb delegates in the House of Peoples.

(2) A proposed amendment shall be adopted:

- (a) in the House of Peoples by a simple majority including a majority of Bosniac delegates, a majority of Croat delegates and a majority of Serb delegates;
- (b) in the House of Representatives by a two-third majority of delegates.

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 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) ...¹³⁰

(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.

¹²⁹ Am. L, originally “(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”.

¹³⁰ Am. XX deleted original letter (c), reading “enact an interim electoral law, in accordance with Article IX.3(4) and Article IX.4(1).”

(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

(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.*¹³¹

(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.*¹³²

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 7¹³³

Published results of the 1991 census shall be appropriately used for all calculations requiring demographic data until Annex 7 is fully implemented.

Article 8

¹³¹ 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."

¹³² 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."

¹³³ Am. LI, originally "The published results of the 1991 census shall be used as appropriate in making any calculations requiring population data".

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

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.*¹³⁴

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.*¹³⁵

(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*

¹³⁴ 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.”

¹³⁵ 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.”

*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.*¹³⁶

*(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.*¹³⁷

Transitional and Final Provisions¹³⁸

Article 11a

1. Proportionate representation in all public authorities including courts

Constituent peoples and members of the group of the Others shall be proportionately represented in public institutions in the Federation of Bosnia and Herzegovina.

As a constitutional principle, such proportionate representation shall follow the 1991 census until Annex 7 is fully implemented, in line with the Civil Service Law of Bosnia and Herzegovina. Further and concrete specification of this general principle shall be implemented by Entity legislation. Such legislation shall include concrete time lines and shall develop the aforementioned principle in line with the regional ethnic structure in the Entities and the Cantons.

Public institutions as mentioned above are the ministries of the Government of the Federation of BiH and of Cantonal Governments, municipal governments, Cantonal and Municipal Courts in the Federation of Bosnia and Herzegovina.

Article 11b

2. Harmonisation of principles with regard to the Cantons of the Federation

Within nine months from the adoption of these amendments, the principles contained therein shall be applied to the Cantons.

Vital interest protection bodies shall be established in the Cantons and minimum representation has to be guaranteed with regard to the Cantonal Governments.

Article 11c

3. Tasks of the House of Peoples

As from the date of the adoption of the amendments to the Constitution of the Federation of Bosnia and Herzegovina, the House of Peoples of the Federation of Bosnia and Herzegovina shall follow the principles contained therein.

Article 11d

Within nine months as from the adoption of these amendments, the Constitutions of the Cantons, laws, other regulations and acts and judicial rules shall be harmonised with the Constitution of the Federation of Bosnia and Herzegovina.

Article 11e

Within three months as from the adoption of these amendments, the provisions of this Constitution related to the Human Rights Court of the Federation of Bosnia and Herzegovina shall be repealed.

The issues of taking over of tasks, equipment, archives and other assets as well as the issue of employment status of the staff of the Human Rights Court of the Federation of Bosnia and Herzegovina shall be regulated in law.

ANNEX

HUMAN RIGHTS INSTRUMENTS TO BE INCORPORATED INTO THE FEDERATION CONSTITUTION

¹³⁶ 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."

¹³⁷ 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."

¹³⁸ Added by Am. LII (Articles 11a, 11b, 11c, 11d and 11e).

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 Relief
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.*¹³⁹

¹³⁹ Added by Am. XXIV.