

DECLARATION CONCERNING THE CONSTITUTION OF THE  
FEDERATION OF BOSNIA AND HERZEGOVINA

18 March 1994

Today we endorse the proposed Constitution of the Federation of Bosnia and Herzegovina, as well as a preliminary agreement concerning future economic and military co-operation between the Federation and the Republic of Croatia. These agreements mark our common commitment to the pursuit of peace in Bosnia and Herzegovina and throughout our region. We are agreed that our efforts will be intensified in the search for an overall political settlement that assures the protection of human rights and the preservation of the sovereignty and territorial integrity of all states in the region.

The Bosniac and the Croat delegations affirm their commitment to propose this Constitution to a Constituent Assembly, as the basis for a federation ensuring full national equality, democratic relations, and the highest standards of human rights and freedoms. All delegations join in their support for the principles of confederation, which can lay the foundation for a more prosperous and secure future for the peoples of the region.

In order to broaden our cooperation, we have decided that we will immediately:

1. Form a Joint Group to serve as the sole representative of the Bosniacs and the Croats in all negotiations with the Serbs concerning an overall settlement in Bosnia and Herzegovina.
2. Ask the Conference on Security and Co-operation in Europe (CSCE) to appoint Ombudsman to begin work in Bosnia and Herzegovina, with the mandate described in the proposed Constitution.
3. Invite the European Union to organise its administration of the District of Mostar as soon as possible.
4. Continue the full and immediate implementation of the measures agreed by the military transition team in Split on March 12 and encourage the development of arrangements for the further disengagement of forces.

(Signed)

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## PROPOSED CONSTITUTION OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

*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 promote peace,

*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, 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,

The peoples and citizens of Bosnia and Herzegovina, determined to ensure full national equality, democratic relations, and the highest standards of human rights and freedoms, hereby create a Federation.

### I. Establishment of the Federation

#### Article 1

1. Bosniacs and Croats, as constituent peoples (along with Others) and citizens of the Republic of Bosnia and Herzegovina, in the exercise of their sovereign rights, transform the internal structure of the territories with a majority of Bosniac and Croat population in the Republic of Bosnia and Herzegovina into a Federation, which is composed of federal units with equal rights and responsibilities.

2. 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.

#### Article 2

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

#### Article 3

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

#### Article 4

The capital of the Federation shall be Sarajevo.

#### Article 5

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

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

#### Article 6

1. The official languages of the Federation shall be the Bosniac language and the Croatian language.

The official script will be the Latin alphabet.

2. Other languages may be used as means of communication and instruction.
3. Additional languages may be designed as official by a majority vote of each House of the Legislature, including in the House of Peoples a majority of the Bosnian Delegates and a majority of the Croat Delegates.

## II. Human rights and fundamental freedoms

### A. General

#### Article 1

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

#### Article 2

The Federation shall ensure the application of the highest level of internationally recognised rights and freedoms provided in the instruments listed in the Annex. 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 authorised only by law;
- c. To equality before the law;
- d. To freedom from discrimination based on race, colour, sex, language, religion or creed, political or other opinions, and national or social origin;
- e. To fair criminal proceedings;
- f. To freedom from torture and cruel or inhuman treatment or punishment;
- g. To privacy;
- h. To freedom of movement;
- i. To asylum;
- j. To protection of the family and of children;
- k. To property;
- l. To fundamental freedoms; free speech and press; freedom of thought, conscience, and belief; freedom of religion, including private and public worship; freedom of assembly; freedom of association, including to form and belong to and labour 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, to be implemented in accordance with Federation legislation and Cantonal legislation consistent therewith, to have restored to them any property of which they were deprived in the course of ethnic cleansing and to be compensated for any property which cannot be restored to them. All statements or commitments made under duress, particularly those relating to the relinquishment of rights to land or property, shall be treated as null and void.

#### **Article 5**

The acquisition and termination of citizenship 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 stateless.
- b. 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 N.C.16.

#### **Article 7**

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

### **B. Initial Appointment and Functions of the Ombudsman**

#### **1. General Provisions**

#### **Article 1**

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

#### **Article 2**

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

### **Article 3**

1. Each Ombudsman shall exercise his functions individually, except as otherwise provided therein. 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

#### **2. The Competence and the Powers of the Ombudsmen**

### **Article 5**

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

### **Article 6**

1. An Ombudsman is entitled to initiate proceedings in competent courts and to intervene in pending proceedings, including any of the Human Rights Courts.
2. As provided for in Article IV.C., 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 enter and inspect any place where persons deprived of their liberty are confined of 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

#### **3. Reports of the Ombudsmen**

### **Article 8**

1. Each Ombudsman shall present an annual report to the Prime Minister and the Deputy Prime Minister of the Federation, to each Cantonal President, and to the CSCE.
2. An Ombudsman may also present at any time special reports to any competent Federation, Cantonal, Municipal or international authorities. Domestic institutions shall have an obligation to reply within a time limit specified by the Ombudsman.
3. In the reports referred to in paragraphs (1) and (2), an Ombudsman may include any material described in Article 5 and shall make arrangements to protect information requiring confidentiality.
4. Relations of the Ombudsmen.

#### **4. Regulations of the Ombudsmen**

### **Article 9**

Each Ombudsman shall draw up, or the Ombudsmen may collectively draw up, Regulations that specify their organisation 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 Government is to have exclusive responsibility for:

- a. Conducting foreign affairs.
- b. Organising and conducting the defence of the Federation and protecting its borders, including establishing a joint command of all military forces in the Federation, controlling military production, and making joint military arrangements.
- c. Citizenship.
- d. Making economic policy, including planning, and reconstruction, and land use policy on the federal level.
- e. Regulating commerce, including customs, international trade and finance, trade within the Federation, industrial property rights, product standards, securities, and communications.
- f. Regulating finance and financial institutions, including establishing and controlling the currency of the Federation, making monetary and fiscal policy, and establishing a central bank.
- g. Combating international and inter-cantonal crimes, in particular terrorism, drug trafficking and organised crime, and cooperating with Interpol.
- h. Allocating electronic frequencies for radio, television, and other purposes.
- i. Making energy policy, including international distribution matters, and providing and maintaining the related infrastructure.
- j. Financing activities of or under the aegis of the Federation 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;
- e. Social welfare policy;
- f. Implementing laws and regulations concerning citizenship;
- g. Immigration and asylum;
- h. Tourism; and
- i. Use of natural resources.

#### Article 3

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

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

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

In exercising these responsibilities in accordance with this Constitution and their respective Cantonal constitutions, the Cantons shall act with respect for inter-Cantonal comity, for coordinated approaches to inter-Cantonal matters, and for consistency on matters implicating interests outside their respective borders and shall in force, complement, and as necessary, elaborate upon Decisions of the Legislature.

The Cantons have the right to make policy and enact laws accordingly concerning each of these responsibilities.

#### Article 4

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

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

### IV. STRUCTURE OF THE FEDERATION GOVERNMENT

#### A. THE FEDERATION LEGISLATURE

##### 1. The House of Representatives

#### Article 1

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

#### Article 2

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

#### Article 3

- 1. Members of the House of Representatives shall be elected democratically by eligible voters in a direct, Federation-wide election. Each voter shall be eligible to cast a single, secret ballot for any registered party. Each party receiving at least five percent (5%) of the total valid votes cast shall be allocated a number of seats proportional to its percentage of the vote received.
- 2. Before each election, each registered party shall publish a list of candidates. The Members of the House of Representatives from each party shall be the persons highest on that party's list; replacements for Members shall be the persons highest of the remainder of that list.

#### Article 4

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

## Article 5

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

### 2. The House of Peoples

## Article 6

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

## Article 7

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

## Article 8

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

## Article 9

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

## Article 10

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

### 3. General

## Article 11

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

## Article 12

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

## Article 13

1. Members of either House of the Legislature shall not be held criminally or civilly liable for any acts carried out within the scope of their respective authority.
2. No member of either House shall be detained or arrested by any authority in the Federation without the approval of that House.

## Article 14

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

## **Article 15**

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

## **Article 16**

1. When the President decides that the Legislature is unable to enact necessary legislation, he may with the concurrence of the Vice-President dissolve either or each House of Legislature, provided that a House may not be dissolved within one year of being first convened.
2. The President shall dissolve the Legislature when it fails to adopt the budget of the Federation before the start of the budgetary period.

### **4. Decisions of the Legislature**

## **Article 17**

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

## **Article 18**

Decisions that concern the vital interest of any of the constituent peoples shall require, in the House of Peoples, the approval of a majority of the 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 invocation, the question shall be determined by the Constitutional Court in an expedited procedure.

## **Article 19**

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

## **Article 20**

1. In addition to other powers specified in the Constitution, the Legislature shall have responsibility for:
  - a. electing the Federation President and Vice-President, as provided in Article IV.B.2 of this Constitution;
  - b. requesting in accordance with Article [V.B.3 (1) of this Constitution that the Constitutional Court decide whether to remove the President and Vice-President;
  - c. approving by a majority vote the Cabinet;
  - d. enacting laws to exercise responsibilities allocated to the Federation Government, which shall take effect as specified therein but no sooner than when promulgated in the Official Journal;
  - e. authorizing any use of military force by the Federation, which must be in accordance with international law;
  - f. authorizing Cantons to conclude agreements with states and international organizations;
  - g. guiding the Prime Minister in the conduct of foreign affairs;
  - h. approving treaties by majority vote;
  - 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 1

The President shall be the head of state.

##### Article 2

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

##### Article 3

1. The President or the Vice-President may be removed by a decision of the Constitutional Court, acting pursuant to a Decision of the Legislature, adopted by a two-thirds majority vote of each House, that the official has violated the oath of office or is otherwise unworthy to serve. 2. If either the President or the Vice-President dies, is removed from office, or, in the opinion of the Cabinet acting by consensus, is permanently unable to fulfil the duties of the office, the procedure provided in Article 2 shall be followed within thirty days by the caucus which nominated the person to be replaced, to fill the vacancy for the remainder of the original term. Either the President or Vice-President shall perform the functions of both offices during the period provided for in the preceding sentence or while, in the opinion of the Cabinet acting by consensus, the other is temporarily unable to do so; necessary concurrences shall be sought from whichever Chairman of the 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.

#### 2. The Cabinet

##### Article 4

The Cabinet shall consist of a Prime Minister, who shall be the head of 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. The Deputy Prime Minister shall serve alternately as either Defence Minister or Foreign Minister.

##### Article 5

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

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

#### Article 6

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

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

### 3. Distribution of Executive Competencies

#### Article 7

Except as specifically provided in this Constitution:

(a) The President shall be responsible for:

- i. nominating the Government, heads of diplomatic missions, officers of the military, and judges of Federation courts, in accordance with Articles JV.B.5, and JV.C.6;
- ii. serving as commander-in-chief of the military of the Federation;
- iii. conducting consultations concerning the appointment of Ombudsman and Judges in accordance with Article 11.B.2 and JV.C.9;
- iv. [(iv)?]
- v. Signing Decisions of the Legislature upon their enactment by the Legislature in accordance with Articles IV.A.17, 18 and 19;
- vi. signing and ratifying international agreements on behalf of the Federation, consistent with Article IV.B.7 (d);
- vii. receiving and accrediting ambassadors; and
- viii. granting reprieves and pardons for offences against humanity, and genocide.

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

- i. replacing the President in the circumstances specified in Article 3 of this Sub-Chapter;
- ii. acting with the President in those situations in which the latter is required to seek his concurrence; and
- iii. carrying out such responsibilities assigned to him by the President or by legislation.

(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) 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).

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

- i. serving alternatively as either Defence Minister or Foreign Minister;
- 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 analysing budgetary proposals concerning his Ministry or, at the request of the Prime Minister, other matters;
- vi. responding to inquiries from either House of the Legislature concerning matters within his Ministry or any other matters assigned to him by the Prime Minister; and
- vii. assisting the Prime Minister in executing and enforcing Federation Government policies and laws; and
- viii. deciding whether to approve the invocation of the procedures described in Article IV.B.6(1)

(g) Each Deputy Minister shall be responsible for:

- i. assisting his Minister in executing Federation Government policies and enforcing Federation Government laws;
- ii. assisting his Minister in carrying out the other functions described in paragraph (f); and
- iii. serving as Minister should the latter be unable to serve or the position is vacant, until a new Minister takes office.

## Article 8

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

## Article 9

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

#### 4. Immunities

##### Article 10

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

### C. THE JUDICIARY

#### 1. General Provisions Concerning All Courts

##### Article 1

1. The judicial functions in the Federation shall be exercised by the courts of the Federation specified in paragraph (2), by the Cantonal courts specified in Article V.11 and by Municipal courts specified in Article VI.8.
2. The Courts of the Federation shall be:
  - a. The Constitutional Court;
  - b. The Supreme Court; and
  - c. The Human Rights Court.

##### Article 2

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

##### Article 3

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

##### Article 4

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

#### 2. General Provisions Concerning the Courts of the Federation

##### Article 5

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

##### Article 6

Except as specifically otherwise provided:

- a. There shall be an equal number of Bosniac and Croat Judges on each Court of the Federation. Others shall also be appropriately represented on each such Court.

- b. The Judges of all the Courts of the Federation shall be nominated by the President with the concurrence of the Vice-President and shall require the approval of a majority of the House of Peoples;
- c. The Judges of all Courts of the Federation shall serve until age of 70, unless they resign or they are removed for cause by the consensus of the Judges of the same Court. However, those Judges appointed initially under this Constitution shall serve for a term of five years unless they reach age 70 sooner, but shall be eligible for reappointment.

#### Article 7

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

#### Article 8

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

#### 3. The Constitutional Court

#### Article 9

The Constitutional Court shall consist of nine Judges.

#### Article 10

- 1. The primary function of the Constitutional Court shall be to resolve disputes:
  - a. between any Cantons;
  - b. between any Canton and the Federation Government;
  - c. between any Municipality and its Canton or the Federation Government; and
  - d. 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 Legislature, is in accord with this Constitution;
  - b. At the request of the Prime Minister, of the Deputy Prime Minister, of the Cantonal President concerned, or of one-third of the members of the Legislature of a Canton, determine whether any law or proposed law that has been adopted by the Legislature (including the Cantonal Constitution and any amendments thereto), is in accord with this Constitution.
  - c. At the request of the President, of the Vice-President, of the Prime Minister, of the Deputy Prime Minister, determine whether any regulation enacted or proposed regulation to be enacted by any organ of the Federation Government is in accord with this Constitution.
  - d. At the request of the Prime Minister, the Deputy Prime Minister, or of the Cantonal President concerned, determine whether any regulation enacted or proposed regulation to be enacted by any organ of the Cantonal or Municipal government is in accord with this Constitution.

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

#### Article 11

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

#### Article 12

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

- a. If the Court decides a dispute pursuant to Article 10 (1), all parties to the dispute shall abide by that decision and comply with any orders of the Court issued in the course of or at the end of the proceeding;
- b. If the Court determines that a law or regulation or proposed law or regulation of the Federation or of any Canton or of any Municipality is not in accord with this Constitution, such law or proposed law shall not remain or enter into force, except if altered in such a manner as specified by the Court or unless the Court specifies some transitional arrangements which may not extend to a period in excess of six months;
- c. If the Court decides a constitutional question presented to it pursuant to Article 10 (3), its response shall be binding on the Court that presented the question in respect of the proceeding in the course of which it arose and shall also have the effect specified in (b).

#### Article 13

1. In any proceeding pursuant to Article 10 (1), both parties to the dispute are entitled to be represented. The Court may also permit other governmental entities that it considers as interested in the dispute to participate in the proceeding.
2. In any proceeding pursuant to Article 10 (2), the person or persons who requested the Court's determination are entitled to be represented, as well as a representative of the House or Legislature that has adopted the law in question.
3. In any proceeding pursuant to Article 10 (3), all parties to the proceeding that gave rise to the constitutional question at issue are entitled to be represented.

### 4. The Supreme Court

#### Article 14

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

#### Article 15

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

#### Article 16

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

## **Article 17**

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

### **5. The Human Rights Court**

## **Article 18**

1. The Human Rights Court shall consist of three Judges, one Bosniac, one Croat and one Other.
2. If the Court concludes that its business requires the participation of more judges to avoid undue delays in the deposition 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 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 judgement that is not subject to any other appeal (for a reason other than the lapse of time limit for which the moving party is responsible), may appeal such judgement 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 any unduly long time in any other court of the Federation or any Canton.
2. The Court shall decide whether to accept such an appeal after a preliminary consideration of whether the proceeding in the other court has been pending too long and whether the subject of the appeal is within its competence.
3. The Court may make other provisions for expediting proceedings.

## **Article 22**

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

## **Article 23**

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

## V. THE CANTONAL GOVERNMENTS

### 1. General Provisions

#### Article 1

Each Canton shall, in carrying out its responsibilities as described in Articles 111.2 and 4 of this Constitution:

- a. take all necessary steps to ensure the protection of the rights and freedoms listed in Sub-Chapter II. A and provided in the instruments listed in the Annex to this Constitution and shall act consistently with this Constitution.
- b. exercise its responsibilities with due regard to the population in each Municipality.

#### Article 2

- 1. Each Canton is authorised to delegate or confer its responsibilities to Municipalities in its territory or to the Federation Government.
- 2. Each Canton may delegate functions concerning education, culture, tourism, local business and charitable organizations, and radio and television to its Municipalities and shall do so to those Municipalities whose majority population is other than that of the Canton as a whole.
- 3. Each Canton may enter into agreements with states and international organizations only with the consent of the Legislature of the Federation.

#### Article 3

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

#### Article 4

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

- a. the institutions described below; and
- b. the protection of the rights and freedoms described in this Constitution; and shall be consistent with this Constitution.

### 2. The Cantonal Legislatures

#### Article 5

- 1. Each Canton shall have a Legislature consisting of one House comprising a number of Legislators determined in proportion to its population but no fewer than thirty and no more than fifty.
- 2. The term of Cantonal Legislators shall be two years.
- 3. Cantonal Legislators shall be elected democratically by the eligible voters in a direct, Canton-wide election. Each voter shall be eligible to cast a single, secret ballot for any registered party. Each party receiving at least three percent of the total valid votes cast shall be allocated a number of seats proportional to its percentage of the vote received by all the parties to which seats are allocated.
- 4. Before each election, each registered party shall publish a list of candidates. Each party's Cantonal Legislators shall be elected from the persons highest on that party's list; replacements for Legislators shall be made from the highest or the remainder on that list.
- 5. Any eligible voter is eligible to serve as a Cantonal Legislator.
- 6. The Cantonal Legislatures shall first be convened not later than ten (10) days after the results of the election have been promulgated.

## **Article 6**

The Cantonal Legislature shall:

- a. prepare and by a two-thirds majority vote approve the Cantonal Constitution;
- b. elect the Cantonal President, as provided in Article V.8;
- c. elect Cantonal judges, as provided in Article V. 11;
- d. specify the jurisdiction of Cantonal and Municipal courts;
- e. enact other legislation necessary to carry out the Canton's responsibilities; and
- f. approve the Canton's budget and enact legislation to levy taxes and otherwise secure the necessary financing.

## **Article 7**

- 1. Each Cantonal Legislature shall elect from among its members its Chairman and shall adopt its rules of procedure.
- 2. Cantonal Legislatures shall deliberate publicly, other than in exceptional circumstances as provided in their rules, and shall publish a record of their deliberations and decisions.
- 3. Laws of the Cantonal Legislatures shall take effect as specified therein but no sooner than when disseminated to the public;
- 4. No Cantonal Legislator shall be called to account criminally or civilly, detained, or otherwise punished for an opinion expressed, or a vote cast, in the Legislature.
- 5. Cantonal Legislatures may conduct investigations and for this purpose may compel the production of testimony and documents.

### **3. The Cantonal Executive**

## **Article 8**

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

## **Article 9**

The Cantonal Government shall be responsible for:

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

#### **Article 10**

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

#### **4. The Cantonal Judiciary**

#### **Article 11**

1. Each Canton shall have courts, which shall have appellate jurisdiction over the courts of its Municipalities and original jurisdiction over matters not within the competence of those courts and as provided in legislation.
2. Cantonal Judges shall be nominated by the Cantonal President from among outstanding jurists and elected by majority vote in the Cantonal Legislature, in such a way that the composition of the judiciary as a whole shall reflect that of the population of the 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.

### **VI. MUNICIPALITY GOVERNMENTS**

#### **Article 1**

In carrying out its responsibilities, each Municipality shall:

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

#### **Article 2**

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

#### **Article 3**

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

#### **Article 4**

The Municipal Governing Council shall:

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

d. enact other regulations and ordinances necessary to carry out the Municipality's responsibilities.

#### Article 5

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

#### Article 6

The Municipal Executive shall be responsible for:

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

#### Article 7

1. Each Municipality shall have courts, which may be established in cooperation with other Municipalities, and which shall have original jurisdiction over all civil and criminal matters, except to the extent original jurisdiction is assigned to another court by this or the Cantonal Constitution or by any law of the Federation or the Canton.

2. Municipal courts shall be established and funded by the Cantonal government.

3. Judges of Municipal courts shall be appointed by the President of the highest Cantonal Court after consultation with the Municipal Executive.

4. Municipal Judges shall serve until age 70, unless they resign or they are removed by the consensus of the Judges of the highest Cantonal Court. The conditions of service shall be determined by Cantonal legislation.

The salaries and other emoluments of a Judge may not be diminished during the period of his service on one of the Municipal courts of the Canton.

### VII. INTERNATIONAL RELATIONS

#### Article 1

The international relations of the Federation are based on the international personality, territorial integrity, and continuity of the Republic of Bosnia and Herzegovina.

#### 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 the Federation and the general rules of international law shall form part of the law of the Federation. In case of any incompatibility between a treaty and legislation, the former shall prevail.

#### Article 4

1. International treaties and other agreements shall be signed and ratified in the name of the Federation by the Federation President. They shall only enter into force for the Federation if approved

by the Federation Legislature, except to the extent that that Legislature provides by law that certain types of agreements do not require such approval.

2. The Federation President, on the advice of the Prime Minister, may denounce international treaties or agreements insofar as permitted by international law, and shall do so if so directed by the Federation Legislature.

## VIII. AMENDMENT OF THE CONSTITUTION

### Article 1

1. Amendments of the Constitution may be proposed by the President in concurrence with the Vice-President, by the Government, by a majority of the House of Representatives, or by a majority of the Bosniac and of the Croat Delegates in the House of Peoples.
2. Proposed amendments of the Constitution shall not receive final consideration in either house of the Federation Legislature until two weeks after they have first been presented.
3. To be adopted, proposed amendments require the following majorities:
  - a. in the House of Peoples, a simple majority, including a majority of the Bosniac Delegates and a majority of the Croat Delegates;
  - b. in the House of representatives, a two-thirds majority.

### Article 2

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

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

### Article 1

1. The Constitution of the Federation will be approved and promulgated by a Constituent Assembly comprising those representatives elected at the 1990 elections to the Assembly of the Republic of Bosnia and Herzegovina whose mandate is still valid.
2. Approval of the Constitution shall require a two-thirds majority of the Constituent Assembly, including consensus between the delegation of the Croat people, comprising all representatives of the Croat nationality, and the delegation of the Bosniac people, and 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 V<.1;
  - b. elect an Interim Federation President, Vice-President, and Government, as provided in Article IX.3 (3); and
  - c. enact an interim electoral law, in accordance with Article IX.3 (4) and Article IX.4 (1).
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 Croat Delegates in the House, the votes of respectively the Bosniac and the Croat members of the Constituent Assembly shall be considered as fulfilling these requirements.
3. As soon as this Constitution enters into force, the Constituent Assembly shall elect an Interim Federation President and an Interim Vice-President, applying the provisions of Article IV.B.2 in conjunction with paragraphs (1) and (2) above, as appropriate. These interim officials shall then nominate an Interim Federation Government, applying the provisions of Article JV.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 of 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. 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.
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 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.

### Article 5

1. All Jaws, 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 VIJ.3 (2).

### Article 6

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

## **Article 7**

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

## **Article 8**

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

## **Article 9**

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 neighbouring state, shall be appointed by the President of the International Court of justice after consultation with the President and 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 Ministers, 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 neighbouring 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 Ombudsman, 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 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.

## **Article 11**

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

2. The Presidency and the Government 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, provided that such powers may not interfere with any governmental powers established pursuant to this Constitution.
3. Until Interim Federation, Cantonal and Municipal officials are elected in accordance with Article JX.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.

ANNEX

HUMAN RIGHTS INSTRUMENTS TO BE INCORPORATED INTO THE FEDERATION  
CONSTITUTION

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide
2. 1948 Universal declaration of Human Rights
3. 1949 Geneva Conventions I-IV on the Protection of the Victims of War, and the 1977 Geneva Protocols I-II thereto
4. 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and 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 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 and Belief
14. 1984 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
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

We, the heads of delegations of the high-level Transition Committee, endorse the above Constitution, which was developed and agreed at our meeting in Vienna between March 4 and March 14, 1994. We hereby undertake to propose this Constitution for the approval of the Constituent Assembly described in Chapter IX upon our mutual agreement.

[Signed] Kresimir ZUBAK [Signed] Haris SILAJDZIC

- (Addition following Chapter V, No. 5, Article 11, at 33 I.L.M. 771 (19940))

## 5. SPECIAL REGIME FOR [MIDDLE BOSNIA] AND [NERETVA] CANTONS

### Article 12

With regard only to the two Cantons [Middle Bosnia] and [Neretva], the foregoing provisions shall apply except when inconsistent with the following:

1. Each Canton shall delegate functions concerning education, culture, tourism, local business and charitable organizations, and radio and television to a Municipality upon that Municipality's request. As provided in Article VI.2, each Municipality shall exercise self-rule on local matters.
2. In each Cantonal Legislature, decisions that concern the vital interest of any of the constituent peoples shall require the approval of a majority of the Legislators, including the approval of a majority of the Bosniac Legislators and of a majority of the Croat legislators. This provision may be invoked by a majority vote of the vote of the Bosniac or Croat Legislators. If a majority of the remaining Legislators opposes the invocation of this provision, a Joint Commission of Bosniac and Croat Legislators shall be established to resolve the issue. If the Commission is unable to do so within one week of the provision's invocation, the question shall be determined in an expedited procedure by the highest court of that Canton (with a right of appeal to the Federation Constitutional Court) if it is a matter of exclusively Cantonal competence or by the Federation Constitutional Court if it is not.
3. a. Each Canton shall have a Deputy President in addition to a Cantonal President elected in accordance with Article V.8. In electing the President and Deputy President, a caucus of the Bosniac Legislators and a caucus of the Croat legislators shall each nominate one person. Election as President and Deputy President shall require approval of the two nominees jointly by a majority vote in the Cantonal Legislature, including a majority of the Bosniac legislators and a majority of the Croat Legislators. Should the joint slate fail to receive the required approval, the caucuses shall reconsider their nominations. The persons elected shall serve alternate one-year terms as President and Deputy President during two-year period. Successive Presidents may not be from the same constituent people.  
b. A person elected as President or Deputy President may not serve more than two successive two-year periods.
4. The President and Deputy President may be removed from office by a two-thirds majority vote of the Cantonal Legislature, including a majority of the Bosniac Legislators and a majority of the Croat Legislators.
5. If either the President or Deputy President dies, is removed from office, or, in the opinion of the Cantonal Government acting by consensus, is permanently unable to fulfil the duties of the office, the procedure provided in paragraph (3) above shall be followed within thirty days by the caucus which nominated the person to be replaced, to fill the vacancy for the remainder of the original term. Either the President or the Deputy President shall perform the functions of both offices during the period provided for in the preceding sentence or while, in the opinion of the Cantonal Government acting by consensus, the other is temporarily unable to do so. If both offices become vacant, the Chairman of the Cantonal Legislature shall perform the functions of both offices during the period provided for in the first sentence of his paragraph.
6. a. The Cantonal Government shall be nominated by the President with the concurrence of the Deputy President and approved by a two-thirds majority vote in the Cantonal Legislature.  
b. The Cantonal Government shall comprise an equal number of Bosniac and Croat representatives, as well as representatives of others nominated and approved in accordance with paragraph (a).
7. The Cantonal Constitution may include provisions addressing the inability of the Legislature to enact necessary legislation.

**CRITERIA FOR THE DEFINITION OF THE TERRITORY OF THE FEDERATION OF BOSNIA AND  
HERZEGOVINA**

The territory of the Federation is to be defined on the basis of the following criteria:

1. According to Article 1, Chapter 1 of the Constitution of the Federation of Bosnia and Herzegovina, the territory of the Federation consists of the areas with the majority Bosniak and Croat population.
2. These areas consist of the municipalities in which the majority population was Bosniak and Croat according to the released data of the 1991 Population Census.
3. Borders of the areas mentioned in point 2 above are to be corrected in the border municipalities by excluding the areas of the inhabited places with the majority Serb population, or by including the areas of the inhabited places with the majority Bosniak and Croat population.
4. The basic interest while defining the territory of the Federation is to include in it by all means the areas with the majority Bosniak and Croat population in Eastern Bosnia - along the Drina river, in the Bosnian Posavina and Western Bosnia.

Remark:

- a. As a separate technical project, a proposal for corridors will be prepared as a possible basis for the continuation of peace negotiations.
- b. Areas with the majority Bosniak and Croat population outside of the Federation territory will be the subject of the continuation of peace negotiations.
- c. Naturally, refugees and displaced persons will, with the assistance and responsibility of the international community, return to the places of their residence on the entire territory of the Republic of Bosnia and Herzegovina. This is an inseparable part of the overall peace agreement for Bosnia and Herzegovina.

The map of the Federation is a part of these criteria.

Kresimir ZUBAK

Haris SILAJZDIC

Vienna, May 11, 1994