

ANNEX I
CONSTITUTIONAL PROVISIONS

The future Constitution of Kosovo shall include, but not be limited to, the following principles and elements.

Article 1 Basic Provisions

The Constitution of Kosovo shall:

- 1.1 Be consistent in all its provisions with this Settlement, and be interpreted in accordance with this Settlement; in the event of a conflict between the provisions of the Constitution and the provisions of this Settlement, the latter shall prevail.
- 1.2 Incorporate the provisions set forth in Article 1, General Principles, of this Settlement.
- 1.3 Affirm that Kosovo is a multi-ethnic society based upon the equality of all citizens and the highest level of internationally recognized human rights and fundamental freedoms, as well as the promotion and protection of the rights and contributions of all its Communities and their members.
- 1.4 Affirm that Kosovo has no official religion and that it shall be neutral on questions of religious beliefs.
- 1.5 Affirm the responsibility of the Kosovo authorities to promote and facilitate the safe and dignified return of refugees and internally displaced persons from Kosovo, and to assist them in recovering their property and possessions.
- 1.6 Provide for the right of all citizens of the former Federal Republic of Yugoslavia habitually residing in Kosovo on 1 January 1998 and their direct descendants to obtain Kosovo citizenship regardless of their current residence and of any other citizenship they may hold.

Article 2 Provisions on the Promotion and Protection of Human Rights and Fundamental Freedoms

2.1 The Constitution shall provide that the rights and freedoms set forth in the following international instruments and agreements shall be directly applicable in Kosovo and have priority over all other law; no amendments to the Constitution shall diminish these rights:

- Universal Declaration of Human Rights
- European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;
- International Covenant on Civil and Political Rights and its Protocols;
- Council of Europe Framework Convention for the Protection of National Minorities
- Convention on the Elimination of All Forms of Racial Discrimination;

Convention on the Elimination of all Forms of Discrimination Against Women;
Convention on the Rights of the Child;
Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or
Punishment:

2.2 The Constitution shall affirm the principle that all persons in Kosovo are entitled to human rights and fundamental freedoms set forth in Article 2.1 of this Annex without discrimination of any kind on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, association with community, property, birth or other status. It shall also affirm the principle that all persons in Kosovo are equal before the law and are entitled, without any discrimination, to equal protection of the law.

2.3 The Constitution shall incorporate Articles 1 to 3 of the Rights of Communities and their Members, as set forth in Annex II of this Settlement.

2.4 The Constitution shall provide for the right for individuals claiming that the rights and freedoms granted to them under the Constitution have been violated by a public authority to introduce a claim to the Constitutional Court, following the exhaustion of all other remedies.

Article 3 The Assembly of Kosovo

With regard to the Assembly of Kosovo, the Constitution shall *inter alia* provide that:

3.1 The Assembly shall have 120 members elected by secret ballot, on the basis of open lists, of which 100 shall be distributed amongst all parties, coalitions, citizens' initiatives, and independent candidates in proportion to the number of valid votes received by them in the election to the Assembly. Candidate lists shall have due regard for internationally recognized principles of gender equality, as reflected in the human rights instruments referred to in Article 2 of this Annex.

3.2 For the first two electoral mandates upon the adoption of the Constitution, the Assembly of Kosovo shall have twenty (20) seats reserved for representation of Communities that are not in the majority in Kosovo, as follows: Ten (10) seats shall be allocated to the parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the Kosovo Serb Community and ten (10) seats shall be allocated to other Communities as follows: the Roma community one (1) seat; Ashkali community one (1) seat; the Egyptian community one (1) seat; and one (1) additional seat will be awarded to either the Roma, the Ashkali or the Egyptian community with the highest overall votes; Bosniak community three (3) seats; Turkish community two (2) seats; and Gorani community one (1) seat. Any seats gained through elections shall be in addition to the ten (10) reserved seats allocated to the Kosovo Serb Community and other Communities respectively.

3.3 After the first two electoral mandates:

3.3.1 Parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the Kosovo Serb community shall have the total

number of seats won through the open election, with a minimum ten (10) seats guaranteed if the number of seats won is less than ten (10).

3.3.2 Parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the other Communities shall have the total number of seats won through the open election, with a minimum number of seats guaranteed, as set forth in Article 3.2, if each Community's number of seats won is less than the number of seats provided for in Article 3.2.

3.4 The group of Assembly members holding seats reserved or guaranteed for the Kosovo Serb Community as well as the group of Assembly members holding seats reserved or guaranteed for other Communities shall each have at least one (1) representative in the Presidency of the Assembly.

3.5 At least one vice-chair of each Assembly Committee shall be from a different Community than the chair.

3.6 The current powers and procedures of the Committee on Rights and Interests of Communities shall remain in place. With respect to its composition, members of Communities shall be represented, but no more than one-third (1/3) of the members of the Committee on Rights and Interests of Communities shall represent the group of Assembly members holding seats reserved for the Kosovo Serb Community, and no more than one-third (1/3) of its members shall represent the group of Assembly members holding seats reserved or guaranteed for other Communities that are not in the majority in Kosovo.

3.7 The following laws shall require for their adoption, amendment or repeal both the majority of the Assembly members present and voting and the majority of the Assembly members holding seats reserved or guaranteed for representatives of Communities that are not in the majority in Kosovo:

- a. Laws changing municipal boundaries, establishing or abolishing municipalities, defining the scope of powers of municipalities and their participation in inter-municipal and cross-border relations;
- b. Laws implementing the rights of Communities and their members, other than those set forth in the Constitution;
- c. Laws on the use of language;
- d. Laws on local elections;
- e. Laws on the protection of cultural heritage;
- f. Laws on religious freedom or on agreements with religious communities;
- g. Laws on education;
- h. Laws on the use of symbols (including Community symbols) and on public holidays.

3.8 Notwithstanding the provisions of Article 3.7 of this Annex, any such laws required to implement the terms of this Settlement, as set forth in its Annex XII, shall not be subject, in their initial adoption, to the requirements of Article 3.7 of this Annex.

3.9 Neither laws subject to the requirements of Article 3.7 nor any proposal contradicting any provision of this Settlement may be submitted to a referendum.

3.10 The Assembly shall establish its own rules of procedure, which shall be consistent with the principles of openness and transparency in democratic decision-making.

Article 4 The President of Kosovo

With regard to the President of Kosovo, the Constitution shall *inter alia* provide that:

4.1 The President of Kosovo shall represent the unity of the people.

4.2 The President of Kosovo may return once to the Assembly for reconsideration any bill he considers detrimental to the legitimate interests of one or more Communities.

Article 5 The Government of Kosovo

With regard to the Government of Kosovo, the Constitution shall *inter alia* provide that:

5.1 There shall be at least one (1) Minister from the Kosovo Serb Community and one (1) Minister from another Kosovo non-majority Community; if there are more than twelve (12) Ministers, there shall be a third Minister representing a Kosovo non-majority Community.

5.2 There shall be at least two Deputy Ministers from the Kosovo Serb Community and two Deputy Ministers from other Kosovo non-majority Communities; if there are more than twelve (12) Ministers, there shall be a third Deputy Minister representing the Kosovo Serb Community and a third Deputy Minister representing another Kosovo non-majority Community.

5.3 The composition of the civil service shall reflect the diversity of the people of Kosovo, having due regard for internationally recognized principles of gender equality, as reflected in the human rights instruments referred to in Article 2 of this Annex. An independent oversight board for the civil service shall ensure respect for the rules and principles governing the civil service, and shall itself reflect the diversity of the people of Kosovo.

Article 6 The Constitutional Court and Justice System

With regard to the Constitutional Court of Kosovo, the Constitution shall *inter alia* provide that:

6.1 The Constitutional Court shall be composed of nine judges, which shall be distinguished jurists of the highest moral character.

6.1.1 Six (6) judges shall be appointed by the President on the proposal of the Assembly. Of the six judges appointed for the first term of office following the entry into force of the Constitution, two (2) judges shall serve for a non-renewable term of three years, two (2) judges shall serve for a non-renewable term of six years, and two (2) judges shall serve for a non-renewable term of nine years. Thereafter, each judge appointed to the Constitutional Court shall be appointed for a non-

renewable term of nine years. The judges whose terms of office are to expire at the end of the initial periods of three or six years shall be chosen by lot by the President of Kosovo immediately after their appointment.

6.1.2 With respect to four (4) of the six judicial positions, the decision to propose a person as a judge of the Constitutional Court shall require a two-thirds majority within the Assembly; with respect to the other two positions, the consent of the majority of the members of the Assembly including the consent of the majority of the members of the Assembly holding seats reserved or guaranteed for representatives of Communities that are not in the majority in Kosovo, shall be required.

6.1.3 Three international judges shall be appointed by the President of the European Court of Human Rights, upon consultation with the International Civilian Representative.

6.2 Ten or more members of the Assembly among others shall have the right to contest the constitutionality of any law or decision adopted by the Assembly before the Constitutional Court, both as regards its substance and the procedure followed.

6.3 Municipalities may contest the constitutionality of laws or acts of the Government infringing upon their responsibilities or diminishing their revenues before the Constitutional Court.

With regard to the justice system in Kosovo, the Constitution shall *inter alia* provide that:

6.4 Judges and prosecutors shall be appointed and dismissed by the President of Kosovo only upon the proposal of the Kosovo Judicial Council (KJC). All vacancies for judicial and prosecutorial positions must be publicly advertised and open to all qualified applicants, who will be selected for proposal by the KJC on the basis of merit in accordance with applicable law and the provisions of Article 6.6 of this Annex.

6.5 The Kosovo Judicial Council shall have full independence in the performance of its functions for the purpose of ensuring an integrated, independent, professional and impartial justice system, ensuring access of all persons in Kosovo to justice and guaranteeing that the Kosovo justice system is inclusive and fully reflects the multi-ethnic nature of Kosovo. This shall not prejudice the establishment, at a later stage, of a separate entity responsible for matters related to the appointment, disciplining and dismissal of prosecutors, which, if established, shall enjoy the same independence in the performance of its functions.

6.6 In relation to the recruitment, selection, appointment, promotion and transfer of judges and prosecutors, the relevant Kosovo authorities shall ensure that the Kosovo judiciary and prosecution service reflect the multiethnic character of Kosovo and the need for equitable representation of all Communities in Kosovo, having due regard for internationally recognized principles of gender equality, as reflected in the human rights instruments referred to in Article 2 of this Annex.

6.7 The current powers and role of the Ombudsperson shall remain in place.

Article 7 The Central Election Commission

7.1 The Commission shall have nine (9) members, including the Chair of the Central Election Commission who shall be appointed by the President of Kosovo from among the members of the Supreme Court and the District Courts.

7.2 Six (6) members shall be appointed by the six biggest parliamentary groups represented in the Assembly which were not entitled to participate in the distribution of the reserved seats. If fewer groups are represented in the Assembly, the biggest group or groups may appoint (an) additional member(s). One (1) member shall be appointed by the Assembly members holding seats reserved or guaranteed for the Kosovo Serb Community, and one (1) member by the Assembly members holding seats reserved or guaranteed for other Communities that are not in the majority in Kosovo.

Article 8 Decentralization/Local Self-Government

With regard to local self-government in Kosovo, the Constitution shall *inter alia* provide that:

8.1 Kosovo shall be composed of municipalities, which shall enjoy a high-degree of local self-government and which encourage and provide for the active participation of all citizens in democratic life.

8.2 Competencies and boundaries of municipalities shall be set by law.

8.3 Municipalities have the right to local sources of revenue and the receipt of appropriate funding from central authorities.

8.4 Municipalities have the right to inter-municipal and cross-border cooperation in the areas of their own and extended competencies.

Article 9 Economic Provisions

With regard to the economic/financial sector of Kosovo, the Constitution shall *inter alia* provide that:

9.1 Kosovo shall use one currency as legal tender.

9.2 Kosovo shall have an independent central banking authority.

9.3 Kosovo shall establish independent market regulatory bodies.

Article 10 Constitutional Amendments

With regard to amendments to the Constitution, the Constitution shall *inter alia* provide that:

10.1 Any amendment to the Constitution shall require the approval of two-thirds of the members of the Assembly including two-thirds of the Assembly members holding seats reserved or guaranteed for the representatives of Communities that are not in the majority in Kosovo.

10.2 No amendment to the Constitution may diminish any of the rights and freedoms referred to in Article 2 of this Annex.

Article 11 Transitional Provisions

The Constitution shall also provide that all authorities in Kosovo shall give effect to decisions or acts of the international authority mandated to supervise implementation of the Settlement and shall abide by all of Kosovo's obligations under the Settlement.