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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

UNMIK REGULATION 2001/9

**ON A CONSTITUTIONAL FRAMEWORK FOR
PROVISIONAL SELF-GOVERNMENT IN KOSOVO**

UNMIK/REG/2001/9

15 May 2001

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ON

A CONSTITUTIONAL FRAMEWORK FOR

PROVISIONAL SELF-GOVERNMENT IN KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

For the purposes of developing meaningful self-government in Kosovo pending a final settlement, and establishing provisional institutions of self-government in the legislative, executive and judicial fields through the participation of the people of Kosovo in free and fair elections,

Hereby promulgates the

"CONSTITUTIONAL FRAMEWORK FOR PROVISIONAL SELF-GOVERNMENT"

which is attached to the present regulation.

The present regulation shall enter into force on the date of signature.

Signed on this 15th day of May 2001.

Hans Haekkerup

Special Representative of the Secretary-General

Constitutional Framework for Provisional Self-Government

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CONSTITUTIONAL FRAMEWORK FOR PROVISIONAL SELF-GOVERNMENT

Preamble

The Special Representative of the Secretary-General (SRSG),

Pursuant to the authority given to him under United Nations Security Council Resolution 1244(1999) of 10 June 1999 (UNSCR 1244(1999));

Recalling that UNSCR 1244(1999) envisages the setting-up and development of meaningful self-government in Kosovo pending a final settlement;

Acknowledging Kosovo's historical, legal and constitutional development; and taking into consideration the legitimate aspirations of the people of Kosovo to live in freedom, in peace, and in friendly relations with other people in the region;

Emphasizing that, since its establishment, the United Nations Interim Administration Mission in Kosovo (UNMIK) has supported and assisted the people of Kosovo and has worked towards this aim by enabling them to take responsibility gradually for the administration of Kosovo through the establishment of the Joint Interim Administrative Structure (JIAS);

Considering that, building on the efforts undertaken by UNMIK and on the achievements of JIAS, including the valuable contribution by the people of Kosovo, and with a view to the further development of self-government in Kosovo, Provisional Institutions of Self-Government in the legislative, executive and judicial fields shall be established through the participation of the people of Kosovo in free and fair elections;

Determining that, within the limits defined by UNSCR 1244(1999), responsibilities will be transferred to Provisional Institutions of Self-Government which shall work constructively towards ensuring conditions for a peaceful and normal life for all inhabitants of Kosovo, with a view to facilitating the determination of Kosovo's future status through a process at an appropriate future stage which shall, in accordance with UNSCR 1244(1999), take full account of all relevant factors including the will of the people;

Considering that gradual transfer of responsibilities to Provisional Institutions of Self-Government will, through parliamentary democracy, enhance democratic governance and respect for the rule of law in Kosovo;

Endeavouring to promote economic prosperity in Kosovo and the welfare of its people through the development of a market economy;

Affirming that the exercise of the responsibilities of the Provisional Institutions of Self-Government in Kosovo shall not in any way affect or diminish the ultimate authority of the SRSG for the implementation of UNSCR 1244(1999);

Taking into account the Charter of the United Nations; the Universal Declaration on Human Rights; the International Covenant on Civil and Political Rights and the Protocols thereto; the Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention on the Rights of the Child; the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto; the European Charter for Regional or Minority Languages; the Council of Europe's Framework Convention for the Protection of National Minorities; and other relevant principles reflected in internationally recognized legal instruments;

Recognizing the need to fully protect and uphold the rights of all Communities of Kosovo and their members;

Reaffirming the commitment to facilitating the safe return of refugees and displaced persons to their homes and their exercise of the right to recover their property and possessions, and the commitment to creating conditions for freedom of movement for all persons;

Recognizing the importance of creating a free, open and safe environment which facilitates the participation of all persons including all members of Communities in the process of establishing democratic institutions of self-government;

Hereby promulgates the following:

Chapter 1

Basic Provisions

1.1 Kosovo is an entity under interim international administration which, with its people, has unique historical, legal, cultural and linguistic attributes.

1.2 Kosovo is an undivided territory throughout which the Provisional Institutions of Self-Government established by this Constitutional Framework for Provisional Self-Government (Constitutional Framework) shall exercise their responsibilities.

1.3 Kosovo is composed of municipalities, which are the basic territorial units of local self-government with responsibilities as set forth in UNMIK legislation in force on local self-government and municipalities in Kosovo.

1.4 Kosovo shall be governed democratically through legislative, executive, and judicial bodies and institutions in accordance with this Constitutional Framework and UNSCR 1244(1999).

1.5 The Provisional Institutions of Self-Government are:

(a) Assembly;

(b) President of Kosovo;

a. Government;

b. Courts; and

(e) Other bodies and institutions set forth in this Constitutional Framework.

6. The seat of the Provisional Institutions of Self-Government is Pristina.

7. The Provisional Institutions of Self-Government shall use only such symbols as are or as may be set forth in UNMIK legislation.

Chapter 2

Principles to be Observed by the Provisional Institutions of Self-Government

The Provisional Institutions of Self-Government and their officials shall:

(a) Exercise their authorities consistent with the provisions of UNSCR 1244(1999) and the terms set forth in this Constitutional Framework;

b. Promote and fully respect the rule of law, human rights and freedoms, democratic principles and reconciliation; and

c. Promote and respect the principle of the division of powers between the legislature, the executive and the judiciary.

Chapter 3

Human Rights

3.1 All persons in Kosovo shall enjoy, without discrimination on any ground and in full equality, human rights and fundamental freedoms.

3.2 The Provisional Institutions of Self-Government shall observe and ensure internationally recognized human rights and fundamental freedoms, including those rights and freedoms set forth in:

- a. The Universal Declaration on Human Rights;
- b. The European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;
- (c) The International Covenant on Civil and Political Rights and the Protocols thereto;
- (d) The Convention on the Elimination of All Forms of Racial Discrimination;
- (e) The Convention on the Elimination of All Forms of Discrimination Against Women;
- (f) The Convention on the Rights of the Child;
- (g) The European Charter for Regional or Minority Languages; and
- (h) The Council of Europe's Framework Convention for the Protection of National Minorities.

3.3 The provisions on rights and freedoms set forth in these instruments shall be directly applicable in Kosovo as part of this Constitutional Framework.

3.4 All refugees and displaced persons from Kosovo shall have the right to return to their homes, and to recover their property and personal possessions. The competent institutions and organs in Kosovo shall take all measures necessary to facilitate the safe return of refugees and displaced persons to Kosovo, and shall cooperate fully with all efforts by the United Nations High Commissioner for Refugees and other international and non-governmental organizations concerning the return of refugees and displaced persons.

Chapter 4

Rights of Communities and Their Members

General Provisions

4.1 Communities of inhabitants belonging to the same ethnic or religious or linguistic group (Communities) shall have the rights set forth in this Chapter in order to preserve, protect and express their ethnic, cultural, religious, and linguistic identities.

4.2 No person shall be obliged to declare to which Community he belongs, or to declare himself a member of any Community. No disadvantage shall result from an individual's exercise of the right to declare or not declare himself a member of a Community.

4.3 The Provisional Institutions of Self-Government shall be guided in their policy and practice by the need to promote coexistence and support reconciliation between Communities and to create appropriate conditions enabling Communities to preserve, protect and develop their identities. The Institutions also shall promote the preservation of Kosovo's cultural heritage of all Communities without discrimination.

Rights of Communities and Their Members

4. Communities and their members shall have the right to:

- a. Use their language and alphabets freely, including before the courts, agencies, and other public bodies in Kosovo;
- b. Receive education in their own language;
- c. Enjoy access to information in their own language;
- (d) Enjoy equal opportunity with respect to employment in public bodies at all levels and with respect to access to public services at all levels;
- (e) Enjoy unhindered contacts among themselves and with members of their respective Communities within and outside of Kosovo;
- (f) Use and display Community symbols, subject to the law;
 - g. Establish associations to promote the interests of their Community;
 - h. Enjoy unhindered contacts with, and participate in, local, regional and international non-governmental organizations in accordance with the procedures of such organizations;
 - i. Provide information in the language and alphabet of their Community, including by establishing and maintaining their own media;
 - j. Provide for education and establish educational institutions, in particular for schooling in their own language and alphabet and in Community culture and history, for which financial assistance may be provided, including from public funds in accordance with applicable law; provided that, curricula shall respect the applicable law and shall reflect a spirit of tolerance among Communities and respect for human rights and the cultural traditions of all Communities;
 - k. Promote respect for Community traditions;
 - l. Preserve sites of religious, historical, or cultural importance to the Community, in cooperation with relevant public authorities;
 - m. Receive and provide public health and social services, on a non-discriminatory basis, in accordance with applicable standards;
- (n) Operate religious institutions;
- (o) Be guaranteed access to, and representation in, public broadcast media, as well as programming in relevant languages; and
- (p) Finance their activities by collecting voluntary contributions from their members or from organizations outside Kosovo, or by receiving such funding as may be provided by the Provisional Institutions of Self-Government or by local public authorities, so long as such financing is conducted in a fully transparent manner.

Protection of Rights of Communities and Their Members

4.5 The Provisional Institutions of Self-Government shall ensure that all Communities and their members may exercise the rights specified above. The Provisional Institutions also shall ensure fair representation of Communities in employment in public bodies at all levels.

4.6 Based on his direct responsibilities under UNSCR 1244(1999) to protect and promote human rights and to support peace-building activities, the SRSB will retain the authority to intervene as

necessary in the exercise of self-government for the purpose of protecting the rights of Communities and their members.

Chapter 5

Responsibilities of the Provisional Institutions of Self-Government

5.1 The Provisional Institutions of Self-Government shall have responsibilities in the following fields:

- a. Economic and financial policy;
- b. Fiscal and budgetary issues;
- c. Administrative and operational customs activities;
- d. Domestic and foreign trade, industry and investments;
- e. Education, science and technology;
- f. Youth and sport;
- g. Culture;
- h. Health;
- i. Environmental protection;
- j. Labour and social welfare;
- k. Family, gender and minors;
- l. Transport, post, telecommunications and information technologies;
- m. Public administration services;
- n. Agriculture, forestry and rural development;
- o. Statistics;
- p. Spatial planning;
- q. Tourism;
- r. Good governance, human rights and equal opportunity; and
- s. Non-resident affairs.

5.2 The Provisional Institutions of Self-Government shall also have the following responsibilities in the field of local administration:

- a. Supporting inter-municipal cooperation;
- b. Promoting the development of a professional municipal civil service;
- c. Assisting the municipalities in the development of their own budgets and financial management systems;
- d. Monitoring the quality of municipal services;

- e. Identifying ways and means for training activities for the municipalities;
- f. Assisting the municipalities in making their activities transparent to the public;
- g. Providing legal guidance and advice to the municipalities;
- h. Coordinating the activities of international agencies and non-governmental organizations pertaining to municipalities; and
- i. Overseeing compliance with responsibilities and powers delegated to municipalities based on the organizational structures that emerged from the municipal elections in October 2000, as well as responsibilities and powers transferred in the meantime. It is understood that additional powers will be progressively transferred in an orderly manner.

5.3 The Provisional Institutions of Self-Government shall also have the following responsibilities in the field of judicial affairs:

- a. Making decisions regarding the appointment of judges and prosecutors;
- b. Exercising responsibilities regarding the organization and proper functioning of the courts, within existing court structures;
- c. The provision, development and maintenance of court and prosecutorial services;
- d. The provision of technical and financial requirements, support personnel and material resources to ensure the effective functioning of the judicial and prosecutorial systems;
- e. The training, including professional and vocational training, of judicial personnel in cooperation with the Organisation for Security and Cooperation in Europe (OSCE);
- f. The organization of examinations for qualification of judges, prosecutors, lawyers and other legal professionals through an independent professional body;
- g. The appointment, training, disciplining and dismissing of members of judicial support staff;
- h. Ensuring coordination on matters pertaining to the judicial system and the correctional service;
- i. Co-operating with appropriate organizations in respect of independent monitoring of the judicial system and the correctional service;
- j. Providing information and statistics on the judicial system and the correctional service, as appropriate;
- k. Protecting personal data relating to the judicial system and correctional service;
- l. Ensuring cooperation in judicial and correctional matters with appropriate entities inside Kosovo; and
- m. Assisting in the recruitment, training and evaluation of personnel for the correctional service.

5.4 The Provisional Institutions of Self-Government shall also have the following responsibilities in the field of mass media:

- a. Adopting laws and enforcement mechanisms in accordance with international human rights and freedom of expression standards as contained in Articles 19 and 29 of the Universal Declaration of Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols to prevent defamation or hate speech in the Kosovo systems of mass media;
- b. Regulating broadcast media consistent with these international legal constraints and the best European practices through an independent media commission, whose members will be appointed by the Provisional Institutions of Self-Government from nominations submitted by non-governmental and non-political organizations in Kosovo; these members will include both genders and will reflect the ethnic and regional diversity of Kosovo society;
- c. Guaranteeing the editorial independence of the public broadcaster by safeguarding the independence of its Board, whose members will be appointed by the Provisional Institutions of Self-Government from nominations submitted by non-governmental and non-political organizations in Kosovo; these members will include both genders and will reflect the ethnic and regional diversity of Kosovo society; and
- d. Establishing an office or offices of public information to present the Institutions' deliberations and decisions to the international and local media.

5.5 The Provisional Institutions of Self-Government shall also have the following responsibilities in the field of emergency preparedness:

- a. Developing and implementing a strategy for emergency planning and civil protection services; and
- b. Directing and coordinating fire and rescue services in close cooperation with the municipalities.

5.6. The Provisional Institutions of Self-Government shall also have the following responsibilities in the field of external relations:

- International and external cooperation, including the reaching and finalising of agreements. Such activities shall be coordinated with the SRSG.

5.7 The Provisional Institutions of Self-Government shall be responsible for aligning their legislation and practices in all areas of responsibility with relevant European and international standards and norms, with a particular view to facilitating closer economic, social and other ties between the people of Kosovo and other Europeans, and in awareness that respect for such standards and norms will be central for the development of relations with the Euro-Atlantic community.

5.8 The Provisional Institutions of Self-Government shall have such other responsibilities as are specified herein or in other legal instruments.

Chapter 6

Law and Order

Maintenance of law and order is of fundamental importance for all the people of Kosovo. The Kosovo Police Service, which functions under the authority of the SRSG and under the supervision of UNMIK Police, contributes significantly to achieving this objective through its supporting role in crime prevention and public protection and safety. With the support of the international community, the capacity of the Kosovo Police Service in crime prevention, criminal information gathering, criminal investigation and fighting against criminality is being enhanced. This will make it possible for the Kosovo Police Service to gradually assume additional responsibilities for the maintenance of law and order.

Chapter 7

Kosovo Protection Corps

The Kosovo Protection Corps is a civilian emergency organisation, established under the law, which carries out in Kosovo rapid disaster response tasks for public safety in times of emergency and humanitarian assistance.

Chapter 8

Powers and Responsibilities Reserved to the SRSG

8.1 The powers and responsibilities of the Provisional Institutions of Self-Government shall not include certain reserved powers and responsibilities, which will remain exclusively in the hands of the SRSG. These reserved powers shall include:

- a. Full authority to ensure that the rights and interests of Communities are fully protected;
- b. Dissolving the assembly and calling for new elections in circumstances where the Provisional Institutions of Self-Government are deemed to act in a manner which is not in conformity with UNSCR 1244(1999), or in the exercise of the SRSG's responsibilities under that Resolution. The SRSG shall exercise this power after consultation with the President of Kosovo. The Assembly may, by a decision supported by two-thirds of its members, request the SRSG to dissolve the Assembly. Such a request shall be communicated to the SRSG by the President of Kosovo;
- c. Final authority to set the financial and policy parameters for, and to approve, the Kosovo Consolidated Budget, acting on the advice of the Economic and Fiscal Council;
- d. Monetary policy;
- e. Establishing arrangements for the independent external audit of the Kosovo Consolidated Budget;
- f. Exercising control and authority over the UNMIK Customs Service;
- g. Exercising final authority regarding the appointment, removal from office and disciplining of judges and prosecutors;
- h. Deciding upon requests regarding the assignment of international judges and prosecutors, as well as change of venue, in accordance with the relevant UNMIK legislation in force;

- i. Exercising powers and responsibilities of an international nature in the legal field;
- j. Exercising authority over law enforcement institutions and the correctional service, both of which include and are supported by local staff;
- k. Exercising control and authority over the Kosovo Protection Corps;
- l. Exercising control and authority over the management of the administration and financing of civil security and emergency preparedness. Responsibility shall be gradually assumed by the Provisional Institutions of Self-Government;
- m. Concluding agreements with states and international organizations in all matters within the scope of UNSCR 1244 (1999);
- n. Overseeing the fulfilment of commitments in international agreements entered into on behalf of UNMIK;
- o. External relations, including with states and international organisations, as may be necessary for the implementation of his mandate. In exercising his responsibilities for external relations, the SRSG will consult and co-operate with the Provisional Institutions of Self-Government with respect to matters of concern to the institutions;
- p. Control over cross-border/boundary transit of goods (including animals). The Provisional Institutions of Self-Government shall co-operate in this regard;
- q. Authority to administer public, state and socially-owned property in accordance with the relevant UNMIK legislation in force, in cooperation with the Provisional Institutions of Self-Government;
- r. Regulation of public and socially-owned enterprises after having consulted the Economic and Fiscal Council and the Provisional Institutions of Self-Government;
- s. Administrative control and authority over railways, frequency management and civil aviation functions. Certain administrative functions shall be carried out by the Provisional Institutions of Self-Government and the relevant independent regulatory bodies;
- t. Control and authority over the Housing and Property Directorate, including the Housing Claims Commission;
- u. Defining the jurisdiction and competence for the resolution of commercial property disputes;
- v. Preserving the existing boundaries of municipalities;
- w. Responsibility to ensure that the system of local municipal administration functions effectively based on internationally recognized and accepted principles;
- x. Appointing the members of the Economic and Fiscal Council, the Governing Board of the Banking and Payments Authority of Kosovo, the chief executives of the Customs Service and Tax Inspectorate, and the Auditor General; convening and presiding over the Economic and Fiscal Council;

- y. Appointing international experts to the managing boards or commissions of the public broadcaster, the independent media regulatory body and other institutions involved in regulating the mass media, with the proviso that the number of such SRSG nominations will not constitute the majority of any such managing board or commission;
- z. Control and authority over the civil registry database, which shall be maintained in cooperation with the Provisional Institutions of Self-Government.

8.2 The SRSG shall coordinate closely with the International Security Presence (KFOR) in:

- (a) Conducting border monitoring duties;
- (b) Regulating possession of firearms;
- (c) Enforcing public safety and order; and
- (d) Exercising functions that may be attributed to the domain of defence, civil emergency and security preparedness.

Chapter 9

Provisional Institutions of Self-Government

Section 1: The Assembly

9.1.1 The Assembly is the highest representative and legislative Provisional Institution of Self-Government of Kosovo.

Composition of the Assembly

9.1.2 The Assembly shall have 120 members elected by secret ballot.

Election of the Assembly

9.1.3 Kosovo shall, for the purposes of election of the Assembly, be considered a single, multi-member electoral district.

(a) One hundred (100) of 120 seats of the Assembly 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.

(b) Twenty (20) of the 120 seats shall be reserved for the additional representation of non-Albanian Kosovo Communities as follows:

- i. Ten (10) seats shall be allocated to parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the Kosovo Serb Community. These seats shall be distributed to such parties, coalitions, citizens' initiatives and independent candidates in proportion to the number of valid votes received by them in the election to the Assembly; and
- ii. Ten (10) seats shall be allocated to other Communities as follows: the Roma, Ashkali and Egyptian Communities four (4), the Bosniak Community three (3), the Turkish Community two (2) and the Gorani Community one (1). The seats for each such Community or group of

Communities shall be distributed to parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing each such Community in proportion to the number of valid votes received by them in the election to the Assembly.

- a. Each person having attained 18 years of age on the day of the election and satisfying the other criteria of eligibility to vote as applied to the municipal elections held in Kosovo on 28 October 2000 shall be entitled to vote.
- b. The rank order of the candidates on lists of parties, coalitions and citizens' initiatives submitted for the purpose of election to the Assembly shall be considered fixed.
- c. Geographical and gender requirements in respect of candidate lists submitted by parties, coalitions and citizens' initiatives for the purpose of the election to the Assembly may be specified by the SRSG on the recommendation of the Central Election Commission.

Assembly Members' Mandate and Eligibility

Length of Mandate

9.1.4 The term of the Assembly shall be three years, commencing on the date of the inaugural session, which shall be convened within thirty days after the certification of the election results.

9.1.5 Without prejudice to the competencies of the SRSG, at least two-thirds of the members of the Assembly may request the SRSG to dissolve the Assembly. Such a request shall be communicated to the SRSG by the President of Kosovo.

Candidate Eligibility

9.1.6 A person who fulfils the voter eligibility requirements shall be eligible to stand as a candidate in Assembly elections provided he is not:

- a. A member of the Central Election Commission, the Election Complaints and Appeals sub-Commission, an Assembly Election Commission, or a Polling Station Committee;
- b. A member of the Kosovo Protection Corps or of the Kosovo Police Service;
- c. Serving as a judge or prosecutor;
- d. Serving a sentence imposed by the International Criminal Tribunal for the Former Yugoslavia or under indictment by the Tribunal and has failed to comply with an order to appear before the Tribunal; or
- e. Deprived of legal capacity by a final court decision.

Presidency of the Assembly

9.1.7 The Assembly shall have a Presidency consisting of seven Assembly members who shall be selected as follows:

- (a) Two members shall be appointed by the party or coalition having obtained the highest number of votes in the Assembly elections;

- (b) Two members shall be appointed by the party or coalition having obtained the second highest number of votes in the Assembly elections;
- (c) One member shall be appointed by the party or coalition having obtained the third highest number of votes in the Assembly elections;
- (d) One member shall be appointed from among the members of the Assembly belonging to those parties having declared themselves representative of the Kosovo Serb Community; and
- (e) One member shall be appointed from among the members of the Assembly belonging to parties having declared themselves representative of a non-Kosovo Albanian and non-Kosovo Serb Community. The method for appointing this latter member shall be determined by members of the Assembly belonging to these same Communities.

9.1.8 The Assembly shall endorse these appointments by a formal vote.

President of the Assembly

9.1.9 A member of the Presidency from the party or coalition having obtained the highest number of votes in the elections for the Assembly shall be the President of the Assembly.

Assembly Committees

9.1.10 There shall be Main and Functional Committees of the Assembly to review draft laws and make recommendations as appropriate.

Main Committees

Budget Committee

9.1.11 The Budget Committee shall be composed of 12 members, allocated proportionally among the parties and coalitions represented in the Assembly. It shall have general competencies in budgetary and financial matters. It shall also be responsible for ensuring that all proposed laws having budgetary implications are accompanied by a financial impact statement.

Committee on Rights and Interests of Communities

9.1.12 The Committee on Rights and Interests of Communities shall be composed of two members from each of Kosovo's Communities elected to the Assembly. Communities represented by only one member in the Assembly shall be represented by this member in the Committee.

9.1.13 At the request of any member of the Presidency of the Assembly, any proposed law shall be submitted to the Committee on Rights and Interests of Communities. The Committee, by a majority vote of its members, shall decide whether to make recommendations regarding the proposed law within the time limit specified below.

9.1.14 If the Committee on Rights and Interests of Communities decides to take such action, it shall, within a period of two weeks from receiving such a proposed law, make recommendations regarding the proposed law with a view to ensuring that Community rights and interests are adequately addressed and submit these recommendations to the relevant Functional Committee or to the Assembly as appropriate.

9.1.15 The Committee may on its own initiative propose laws and such other measures within the responsibilities of the Assembly as it deems appropriate to address the concerns of Communities.

9.1.16 Each member of the Committee shall have the right to attach a written opinion to any proposed law referred to or taken up by the Committee.

9.1.17 A matter may be referred to the Committee for an advisory opinion by the Presidency of the Assembly, a Main or Functional Committee or a group composed of ten or more members of the Assembly.

Functional Committees

9.1.18 The Assembly may establish such Functional Committees as it deems necessary and appropriate to carry out its responsibilities.

9.1.19 The Assembly shall decide on the number of members of each functional committee. The membership of all Functional Committees shall reflect the diversity of the membership of the Assembly.

9.1.20 If a party of coalition represented in the Assembly does not have a seat on a given Functional Committee, it shall have the right to send an Assembly member to all meetings of that Functional Committee in an observer capacity.

Chairmen and Vice-Chairmen of Committees

9.1.21 The chairmanships of all the Committees of the Assembly shall be distributed proportionally among the parties and coalitions represented in the Assembly.

9.1.22 Committees shall have two Vice-Chairmen from different parties or coalitions than that of the Chairman. At least one Vice-Chairman shall be of a different Community than the Chairman.

Rights, Immunities and Remuneration

9.1.23 Each member of the Assembly shall have an equal right and obligation to participate fully in the proceedings of the Assembly. This shall include, but not be limited to, the rights to initiate draft laws and resolutions, to vote on all proposed decisions by the Assembly, and to take part on an equal basis with other members in all debates of the Assembly.

9.1.24 All members of the Assembly shall be immune from all civil and criminal proceedings with regard to words spoken or other acts performed in their capacity as members of the Assembly. Such immunity shall not cover acts that are clearly conducive to inter-Community violence.

9.1.25 All members of the Assembly shall receive salaries for their participation in the work of the Assembly and its Committees.

Responsibilities of the Assembly

9.1.26 The Assembly shall have the following responsibilities:

- a. Adopting laws and resolutions in the areas of responsibility of the Provisional Institutions of Self-Government as set out in Chapter 5;
- b. Endorsing the Presidency of the Assembly;
- c. Electing the President of Kosovo;
- d. Endorsing or rejecting the Prime Minister candidate together with the list of Ministers of the Government proposed by the Prime Minister candidate;

- e. Making decisions on other appointments as specified in this Constitutional Framework;
- f. Considering and endorsing proposed international agreements within the scope of its responsibilities;
- g. Deciding on motions of no-confidence in the Government;
- h. Instructing the Government to prepare draft laws;
- i. Adopting the Rules of Procedure of the Assembly and its committees; and
- j. Other responsibilities specified herein or in other legal instruments.

9.1.27 Laws, once promulgated, are binding legislative acts of a general nature. Resolutions are non-binding declarations.

Responsibilities of the Presidency of the Assembly

9.1.28 The Presidency of the Assembly shall have the following responsibilities:

- a. Making recommendations to the Assembly on all organizational matters of Assembly business, including the agenda;
- b. Maintaining appropriate external parliamentary contacts, in coordination with the SRSG; and
- c. Acting on motions as provided in paragraphs 9.1.40 and 9.1.41.

9.1.29 The Presidency shall endeavour to adopt all decisions by consensus. When efforts to reach consensus have failed, except when acting on motions under paragraph 9.1.40, it shall decide by majority vote of those present and voting, provided that at least five members are present. In the event of a tie vote, the President's vote shall decide the matter.

Responsibilities of the President of the Assembly

9.1.30 The President shall represent the Assembly.

9.1.31 The President shall preside at meetings of the Assembly, call its sessions to order, and perform other tasks prescribed by the rules of procedure of the Assembly.

Decision-Making Procedures

9.1.32 A majority of the members of the Assembly shall constitute a quorum. The Assembly may initiate and conduct its proceedings when at least one-third of the members are present provided that, for the taking of decisions, the quorum requirement shall be satisfied.

9.1.33 Decisions of the Assembly shall be adopted by a majority of the members of the Assembly present and voting, unless otherwise explicitly provided herein.

Procedure for Adopting Laws

9.1.34 One or more members of the Assembly or the Government shall present the draft law to the Assembly for a first reading.

9.1.35 The draft law shall be considered by the relevant main and functional committees, which may propose amendments where appropriate.

9.1.36 The Assembly shall in the second reading consider the draft law together with any amendments proposed by the committee(s) or by individual or groups of members of the Assembly or by the Government.

9.1.37 At the end of the second reading, the Assembly shall vote on the proposed amendments and thereafter on the draft law as a whole. The draft law shall be approved if it receives the majority of the votes of those present and voting.

9.1.38 The Assembly may decide to submit a draft law that failed to receive the necessary votes in the second reading for a third reading together with any further amendments that have been approved. The draft law shall be approved if it receives the majority of the votes of those present and voting.

9.1.39 Within 48 hours from the approval of a law by the Assembly pursuant to paragraphs 9.1.37 or 9.1.38 above, any member of the Assembly, supported by five additional members, may submit a motion to the Presidency claiming that the law or certain of its provisions violate vital interests of the Community to which he belongs. The motion shall set out a reasoned explanation of the claimed violation. A motion may be made on the grounds that the law or provisions discriminate against a Community, adversely affect the rights of the Community or its members under Chapters 3 or 4, or otherwise seriously interfere with the ability of the Community to preserve, protect or express its ethnic, cultural, religious or linguistic identity.

9.1.40 The Presidency shall request the sponsors of the law or provisions to provide within three days reasoned arguments in reply. At the same time, the Presidency shall request each of the two sides to designate a representative to serve on the special panel provided for in paragraph 9.1.41. The Presidency shall attempt to submit, within five days following receipt of the reply, a consensus proposal to the Assembly.

9.1.41 If the Presidency fails to submit such a consensus proposal within the five-day period, a special three-member Panel consisting of representatives of the two sides and one member, who shall preside, designated by the SRSG shall automatically be seized of the matter. The Panel shall within five days issue a decision recommending that the Assembly reject the motion, that the Assembly reject the law or provisions at issue, or that the Assembly adopt the law with amendments that the Panel shall propose. The Panel shall take its decisions by a majority of its members.

9.1.42 The Assembly shall decide whether to accept the consensus proposal of the Presidency, if such a proposal is submitted, or the recommendation of the Panel. No amendments other than those proposed pursuant to paragraphs 9.1.40 or 9.1.41 above may be introduced at this stage. If the Assembly rejects the consensus proposal of the Presidency or the recommendation of the Panel, or accepts a consensus proposal or recommendation for the rejection of the motion, the law as previously approved by the Assembly shall stand.

9.1.43 If no motion is submitted within the 48-hour period specified in paragraph 9.1.39 above, or following approval of a law pursuant to paragraph 9.1.42 above, the law shall be considered adopted.

9.1.44 The President shall sign each law adopted by the Assembly and forward it to the SRSG for promulgation.

9.1.45 Laws shall become effective on the day of their promulgation by the SRSG, unless otherwise specified.

Other Procedures

Removal from Office

9.1.46 A member of the Assembly who has been convicted of a criminal offence and sentenced to serve a prison term of six months or more shall cease to be a member.

9.1.47 If a member of the Assembly fails throughout a period of six consecutive months to attend any session of the Assembly or the Committee(s) of which he is a member, he shall, unless the failure was due to a reason approved by the Assembly, cease to be a member.

Vacancies

9.1.48 Vacancies in the Assembly shall be filled in accordance with the UNMIK legislation governing the Kosovo-wide elections.

Languages of the Assembly

9.1.49 Meetings of the Assembly and its Committees shall be conducted in both the Albanian and Serbian languages. All official documents of the Assembly shall be printed in both the Albanian and Serbian languages. The Assembly shall endeavour to make official documents which concern a specific Community available in the language of that Community.

9.1.50 Assembly members from Communities other than the Kosovo Albanian and Kosovo Serb Communities shall be permitted to address the Assembly or its Committees in their own language and to submit documents for consideration by the Assembly in their own language. In such cases, interpretation or translation into the Albanian and Serbian languages shall be provided for the other members of the Assembly or Committee.

9.1.51 All promulgated laws shall be published in the Albanian, Bosniak, English, Serbian and Turkish languages.

Section 2: The President of Kosovo

9.2.1 The President of Kosovo shall represent the unity of the people and guarantee the democratic functioning of the Provisional Institutions of Self-Government.

9.2.2 The President of Kosovo shall, in coordination with the SRSG, represent Kosovo and exercise his rights and duties in accordance with the provisions of this Constitutional Framework and the applicable law.

9.2.3 The mandate of the President of Kosovo shall be three years.

9.2.4 The President of Kosovo shall exercise the following duties in accordance with this Constitutional Framework and the applicable law:

- a. In coordination with the SRSG, take action in the field of external relations;
- b. Following consultations with the political parties represented in the Assembly, propose to the Assembly the Prime Minister;
- c. Communicate to the SRSG a request of the Assembly to dissolve the Assembly, in accordance with paragraph 8.1(b);
- d. Present a report to the Assembly on the general state of affairs in Kosovo at least once a year; and
- e. Present awards and express gratitude.

9.2.5 If the President of Kosovo becomes temporarily unable to perform his duties, the functions of the President of Kosovo shall be exercised by the President of the Assembly.

9.2.6 The President of Kosovo shall enjoy immunity with respect to acts performed in exercising his functions.

9.2.7 The President of Kosovo shall not hold any other office or employment.

9.2.8 The President of Kosovo shall be elected by the Assembly by secret ballot. A nomination for the post of President of Kosovo shall require the support of the party having the largest number of seats in the Assembly or of at least 25 members. The Assembly shall elect the President of Kosovo by a two-thirds majority of the members of the Assembly. If after two ballots a two-thirds majority is not obtained, in the following ballots a majority of the votes of all members of the Assembly shall be required for election.

9.2.9 The term of office of the President of Kosovo shall end upon:

- a. The completion of his mandate;
- b. His death;
- c. His resignation; or
- d. His dismissal from office by means of the votes of a two-thirds majority of all the members of the Assembly.

Section 3: The Government

Responsibilities of the Government

9.3.1 The Government shall exercise the executive authority and shall implement Assembly laws and other laws within the scope of responsibilities of the Provisional Institutions of Self-Government established by this Constitutional Framework.

9.3.2 The Government may propose draft laws to the Assembly at its own initiative and shall do so at the request of the Assembly.

Ministries and Executive Agencies

9.3.3 There shall be established ministries and other executive agencies as are necessary to carry out functions within the competence of the Government.

Composition of the Government

9.3.4 The Government shall consist of the Prime Minister and Ministers.

9.3.5 At all times, at least two Ministers shall be from Communities other than the Community having a majority representation in the Assembly.

- a. At least one of these Ministers shall be from the Kosovo Serb Community and one from another Community.
- b. In the event that there are more than twelve Ministers, a third Minister shall be from a non-majority Community.

- c. The selection of these Ministers and their responsibilities shall be determined after consultation with parties, coalitions or groups representing non-majority Communities.

9.3.6 The Prime Minister and Ministers may be members of the Assembly, or qualified persons from outside the membership of the Assembly. Ministers from Communities, other than the one having the majority among the members of the Assembly, shall, if appointed from outside the Assembly, require the formal endorsement of the members of the Assembly from the Community concerned.

Outside Activities of the Ministers

9.3.7 The Prime Minister and Ministers may not hold other public office or other employment on a full-time basis, nor exercise any activity on a part-time basis incompatible with their office, while exercising their responsibilities.

Election of the Prime Minister and Ministers

9.3.8 Following Assembly elections, or if the Prime Minister resigns or his office becomes vacant for another reason, the President of Kosovo shall, following consultations with the parties, coalitions or groups represented in the Assembly, propose to the Assembly a candidate for Prime Minister. The proposed candidate shall present a list of proposed Ministers to the Assembly. The Prime Minister shall be elected together with the Ministers by a majority of the members of the Assembly.

9.3.9 If the proposed candidate does not obtain the required majority, the President of Kosovo shall propose within ten days a new candidate for Prime Minister. The new candidate, together with the list of ministers proposed by him, shall be elected by a majority of the members of the Assembly.

Motion of No-Confidence

9.3.10 The Assembly may express its lack of confidence in the Government only if, by a majority of its members, it elects simultaneously a new Prime Minister together with a list of Ministers proposed by him.

9.3.11 The term of office of the outgoing Government shall end with the election of the new Prime Minister and Ministers.

Changes in the Composition of the Government

9.3.12 Following his election, the Prime Minister may replace any Minister without the consent of the Assembly.

9.3.13 Upon the resignation of the Prime Minister, the entire Government shall resign. The Government shall continue in a caretaker capacity until the election of a new Prime Minister.

Procedures within the Government

9.3.14 The Prime Minister shall call and chair meetings of the Government and propose the agenda for these meetings. He shall represent the Government as appropriate, define the general lines of policy of the Government, and coordinate its work.

9.3.15 Each Minister shall be responsible for implementing the policy of the Government within his area of responsibility.

9.3.16 The Government shall endeavour to reach its decisions by consensus. If a vote is necessary, decisions shall be taken by a majority of the Ministers present and voting. The Prime Minister shall cast the deciding vote in the event Ministers are divided equally. The Government shall otherwise decide its own rules of procedure.

Languages of the Government

9.3.17 Meetings of the Government and its bodies shall be conducted in both the Albanian and Serbian languages. All official documents of the Government shall be printed in both the Albanian and Serbian languages.

9.3.18 Members of the Government from Communities other than the Kosovo Albanian and Kosovo Serb Communities shall be permitted to use their own language.

Immunities

9.3.19 All members of the Government shall be immune from all civil and criminal proceedings with regard to words spoken or other acts performed in their capacity as members of the Government. Such immunity shall not cover acts that are clearly conducive to inter-Community violence.

Section 4: The Judicial System

Administration of Justice

9.4.1 The courts are responsible for the administration of justice in Kosovo in accordance with the applicable law.

9.4.2 Each person claiming to have been directly and adversely affected by a decision of the Government or an executive agency under the responsibility of the Government shall have the right to judicial review of the legality of that decision after exhausting all avenues for administrative review.

9.4.3 Each person shall be entitled to have all issues relating to his rights and obligations and to have any criminal charges laid against him decided within a reasonable time by an independent and impartial court.

The Court Structure

9.4.4 There shall be the Supreme Court of Kosovo, District Courts, Municipal Courts and Minor Offense Courts.

Court Proceedings

9.4.5 Unless otherwise specified in the applicable law, all Kosovo courts shall hold proceedings in public.

Judges and Prosecutors

9.4.6 Judges shall be independent and impartial. They shall not hold any other public office.

9.4.7 Judges of all courts of Kosovo shall be distinguished jurists of the highest moral character, with adequate qualifications. The membership of the judiciary shall reflect the diversity of the people of Kosovo. International judges and prosecutors shall serve within the judicial system according to rules established by the SRSG.

9.4.8 Judges and Prosecutors shall be appointed by the SRSG from lists of candidates proposed by the Kosovo Judicial and Prosecutorial Council and endorsed by the Assembly. Decisions on the promotion, transfer and dismissal of judges and prosecutors shall be taken by the SRSG on the basis of recommendations by the Kosovo Judicial and Prosecutorial Council and exceptionally on his own initiative.

Office of the Public Prosecutor

9.4.9 There shall be an Office of the Public Prosecutor for Kosovo, as well as offices of district and municipal prosecutors.

9.4.10 The Office of the Public Prosecutor as well as the offices of the district and municipal prosecutors shall exercise its functions in accordance with the applicable law.

Special Chamber of the Supreme Court on Constitutional Framework Matters

9.4.11 A Special Chamber of the Supreme Court shall decide:

- a. At the request of the President of Kosovo, any member of the Presidency of the Assembly, any Assembly Committee, no fewer than five members of the Assembly, or the Government, whether any law adopted by the Assembly is incompatible with this Constitutional Framework, including the international legal instruments specified in Chapter 3 on Human Rights;
- b. In the event of disputes between or among Provisional Institutions of Self-Government, or between a Provisional Institution of Self-Government and an Assembly Committee, one or more members of the Presidency of the Assembly, or one or more members of the Assembly on the extent of their rights and obligations under this Constitutional Framework;
- c. At the request of any independent body or office referred to in Chapters 10 and 11, whether a decision of a Provisional Institution of Self-Government infringes upon the independence and responsibilities of the relevant independent body or office; and
- d. At the request of the Office of the Public Prosecutor, whether an act by a member of the Assembly, a member of the Government or the President of Kosovo constitutes an official act and as such is covered by immunity under this Constitutional Framework.

Chapter 10

Ombudsperson

10.1 Natural and legal persons in Kosovo shall have the right, without threat of reprisal, to make complaints to an independent Office concerning human rights violations or actions constituting abuse of authority by any public authority in Kosovo.

10.2 The Office, in accordance with UNMIK legislation in force, shall have jurisdiction to receive and investigate complaints, monitor, take preventive steps, make recommendations and advise on any such matters.

10.3 The Ombudsperson shall give particular priority to allegations of especially severe or systematic violations, allegations founded on discrimination, including discrimination against

Communities and their members, and allegations of violations of rights of Communities and their members.

Chapter 11

Independent Bodies and Offices

11.1 The following bodies and offices shall carry out their functions independently of the Provisional Institutions of Self-Government:

- a. Central Election Commission;
- b. Kosovo Judicial and Prosecutorial Council;
- c. Office of the Auditor-General;
- d. Banking and Payments Authority of Kosovo;
- e. Independent Media Commission;
- f. Board of the Public Broadcaster; and
- g. Housing and Property Directorate and the Housing and Property Claims Commission.

11.2 The bodies and offices specified above, and such other independent bodies and offices as may be established by law, shall have the powers, obligations, and composition specified in the legal instruments by which they are established.

Chapter 12

Authority of the SRSG

The exercise of the responsibilities of the Provisional Institutions of Self-Government under this Constitutional Framework shall not affect or diminish the authority of the SRSG to ensure full implementation of UNSCR 1244(1999), including overseeing the Provisional Institutions of Self-Government, its officials and its agencies, and taking appropriate measures whenever their actions are inconsistent with UNSCR 1244(1999) or this Constitutional Framework.

Chapter 13

Authority of KFOR

Nothing in this Constitutional Framework shall affect the authority of the International Security Presence (KFOR) to fulfil all aspects of its mandate under UNSCR 1244(1999) and the Military Technical Agreement (Kumanovo Agreement).

Chapter 14

Final Provisions

14.1 In case of conflict between this Constitutional Framework and any law of the Assembly, this Constitutional Framework shall prevail.

14.2 The SRSG shall take the necessary measures to facilitate the transfer of powers and responsibilities to the Provisional Institutions of Self-Government.

14.3 The SRSG, on his own initiative or upon a request supported by two-thirds of the members of the Assembly, may effect amendments to this Constitutional Framework.

14.4 The English, Albanian and Serbian language versions of this Constitutional Framework are equally authentic. In case of conflict, the English language version shall prevail. This Constitutional Framework shall also be published in the Bosniak and Turkish languages.

14.5 This Constitutional Framework shall enter into force upon promulgation by the SRSG.

Signed on this 15th day of May 2001.

Hans Haekkerup

Special Representative of the Secretary-General