

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the Clinton Presidential Library Staff.

Folder Title:

Kosovo - Settlement [2]

Staff Office-Individual:

Kosovo Office-Schulte, Gregory

Original OA/ID Number:

1709

Row:	Section:	Shelf:	Position:	Stack:
39	1	7	2	V



United States Department of State

Washington, D.C. 20520

November 9, 1998

TO: Kosovo Police/AOJ Working Group

FROM: Jack Chorowsky
State/L (647-5036)

RE: Law Enforcement Annex

Please find attached an *exceedingly rough* draft of an annex which would spell out the cop and aoj details of a political settlement between the parties in Kosovo. You will note lots of places that need to be substantially filled-in and there are probably many issues that haven't even been properly flagged in the draft. You may also find some inconsistencies -- the document has been drafted by different people and modified at different points in time to reflect political calculations of what seems to be achievable (I've tried to eliminate these rough spots, but have been working fast and am erring on the side of getting you a rougher draft sooner, rather than a more polished draft later.) Those who read closely will note different writing styles reflecting different authors; I'll fix all of this second order stuff down the road.

At this point, I think, there's plenty of first order conceptual work to be done -- especially on courts and prosecutors.

Finally, a note about maintaining copies of this document. An earlier version made its way into the public domain, which will prove problematic in the future, as our final product will no doubt give the Kosovars much less. While this text is not classified, it should nonetheless be held closely and maintained with similar care.

LAW ENFORCEMENT AND SECURITY ANNEX

I. GENERAL PRINCIPLES

1. The Parties agree to cooperate on law enforcement matters of mutual interest consistent with the procedures outlined below.
2. All Kosovo, Republic and Federal law enforcement and military authorities shall be obligated, in their respective areas of authority, to ensure freedom of movement and safe passage for all persons, vehicles and goods.
3. In exercising authorities under this annex, all law enforcement and military components shall observe internationally recognized standards of human rights, due process and fundamental fairness.
4. Police forces at the communal and municipal levels under the supervision of civilian authorities will have primary responsibility for law enforcement and maintaining public safety in Kosovo.
5. All law enforcement bodies operating in Kosovo will be representative of the population.
6. An international civilian police mission will be undertaken in the territory of Kosovo to monitor the enforcement of this Agreement and guide the implementation of the agreement. The Parties agree to cooperate fully with the international civilian police mission.

II. LAW ENFORCEMENT COMPONENTS

The following law enforcement components shall be established to provide for civilian safety within Kosovo:

A. Communal Police Units

1. Duties and Functions. Communal police units, organized and stationed at the communal and municipal levels, shall have primary responsibility for local law enforcement in Kosovo. The specific responsibilities of the communal police will include:

- a. Police patrols and crime prevention
- b. Criminal investigations
- * c. Arrest and detention of criminal suspects
- d. Crowd control
- e. Traffic control

2. Structure and Composition.

a. Size. The total number of communal police operating within Kosovo shall not exceed 2,700 active duty law enforcement officers (exclusive of administrative officers).

b. Civilian Coordination. Communal police units will be coordinated by a civilian staff located in Pristina.

3. Communal/Municipal Level. Communal police operations will be undertaken by personnel assigned at the communal level and, within communes, at the municipal station level. Force size for each commune will be determined on the basis of the size and population of the commune. The ethnic balance of a communal police unit will be representative of the ethnic balance of the commune in which it operates.

a. Personnel.

(i) Communal Commander. Each communal government will appoint a communal police commander with responsibility for communal police operations within the commune. The commander will serve at the pleasure of the respective communal governments and may be removed for cause.

(ii) Deputy Communal Commander. Each communal government will appoint a deputy police commander to assist the communal commander in his duties.

[The deputy communal commander shall be a member of the largest minority ethnic group where that ethnic group comprises at least 10% of the commune's population???)

(iii) Municipal Station Chiefs. The communal commander shall appoint, with the concurrence of the deputy commander, and in consultation with the Communal Security Commission, municipal station chiefs with responsibility for municipal police station operations. Municipal station chiefs shall serve at the pleasure of their communal police commanders.

b. Municipal Stations. The communal government, with the concurrence of the communal police commander, shall establish such municipal police stations in the commune as it deems necessary to prevent, detect and investigate criminal activity and maintain public order. These stations will be staffed by communal police assigned to the commune.

4. **Salaries.** Salaries for all communal police personnel, regardless of where they are assigned, will be paid by [???

5. Recruitment. Communal police recruitment will be conducted primarily at the communal level. Each communal government, in consultation with the Communal Security Commission, communal police commander, and deputy commander, will nominate officer candidates. Appointments to the academy basic recruit course will be made by the academy director and deputy director. Offers of employment will be made by [communal police commanders], with the concurrence of the academy director and deputy director, only after the candidate has successfully completed the academy basic recruit course.

For as long as the international civilian police mission is present, recruitment, selection and training will be conducted in cooperation with the international civilian police mission, and with the assistance of international bilateral donors.

6. Equipment

All communal police officers, with the exception of crowd control units, will wear a standard solid dark blue uniform. Such uniform will include a badge, picture identification, and name tag. Aside from insignias noting officer rank, the only patches or insignias which may be worn on the uniform are a "Communal Police" patch, and a patch which notes the name of the officer's assigned commune. If an officer is assigned to a specialized unit such as a crowd control or traffic control unit, the name of the unit also may be noted on the uniform.

Communal police officers will be equipped with a sidearm, handcuffs and a baton. Each commune may keep, either at the communal headquarters or at municipal stations, no more than 20 long-barreled weapons. Long-barreled weapons may be carried or used only with the permission of the communal police commander (and the international civilian police mission for as long as it is present). When not in use, all weapons will be securely stored and each commune will keep a

registry of all weapons assigned to it.

Crowd control units will receive equipment appropriate to their task, including batons, helmets and shields.

7. Use of Force

Communal police personnel are authorized to use force in performance of lawful duties. The force used must be the minimum force that is reasonable and necessary under the circumstances. Allegations of inappropriate use of force will be investigated by the Internal Affairs Unit [??]. The penalty for inappropriate use of force will be proportionate to the seriousness of the offense and may include dismissal, criminal charges or civil penalties.

D. Interim Police Academy

1. Functions

Under the supervision of the international community, an interim Police Academy will offer mandatory and professional development training for all personnel serving in the communal police. Such training will include:

- a. a basic recruit program
- b. advanced investigative and forensic skills
- c. crowd control
- d. traffic control
- e. VIP protection

Priority will be given to establishing the basic recruit program.

The Academy will play a role in the selection and advancement of law enforcement personnel, providing recommendations and evaluations based on individuals' performance in academy programs. The Academy will provide certificates upon completion of training programs and will maintain adequate training records.

2. Structure and Administration

- a. Academy Director. The director will be a Kosovar Albanian appointed and removed by [] in consultation with the Kosovo Security Commission. The Director will be responsible for all aspects of Academy operations, including student selection to program development, approval and evaluation. The director will report to

[].

b. Academy Deputy Director. The deputy director will be of Serb ethnicity appointed and removed by [] in consultation with the Kosovo Security Commission.

c. All costs relating to Academy functions, including facility maintenance, travel, costs and salaries for instructors and academy administrative personnel, will be paid by [????].

3. Facilities

The Academy will provide lodging, meals, classrooms and appropriate training facilities, including a firing range.

4. Faculty

The staff of the Academy will be selected and removed with the concurrence of the Academy Director and Deputy Director and will be representative of the ethnic balance of Kosovo.

5. Basic Program of Study

Upon establishment of the Interim Policy Academy, all police candidates will be required to successfully complete a course of police studies which include principles and methods of democratic policing. Only candidates who satisfactorily complete such course may serve as communal police officers.

IV. SECURITY COMMISSIONS

1. The parties shall establish a Kosovo Security Commission and Local Security Commissions. The Commissions shall be forums for cooperation, coordination and the resolution of disputes concerning law enforcement and security in Kosovo.

2. The membership of the Kosovo Security Commission and each Local Security Commission shall be representative of the population and shall include:

a. In the Kosovo Security Commission:

i. a representative of each commune.

ii. a representative of the communal police.

iii. a representative of each Republic and

Federal law enforcement component operating in Kosovo (for example, RJB, Customs police, Border police, etc.).

iv. a representative of each national community.

v. a representative of the International Civilian Police Mission (as part of the KVM), during its period of operation in Kosovo.

vi. a representative of the VJ.

b. In the Local Security Commissions:

i. a representative of the communal police.

ii. a representative of each Republic and Federal law enforcement component operating in the commune.

iii. a representative of each national community.

iv. a civilian representative of the communal government.

v. a representative of the International Civilian Police Mission (as part of the KVM), during its period of operation in Kosovo.

3. The functions of the Commissions shall include the following:

a. Review, and make recommendations regarding, communal police and other law enforcement issues.

b. Review, and make recommendations regarding the recruitment, selection and training of police officers.

c. Consider complaints regarding police practices filed by individuals or national communities.

d. In the Kosovo Security Commission only: In consultation with designated local, Republic and Federal police liaisons, monitor jurisdiction sharing in cases of concurrent criminal jurisdiction between Kosovo, Republic and Federal authorities.

4. Each Security Commission shall meet at least monthly, or

+ any VJ
deployed
in locality
(commune?)

at the request of any Commission member.

V. COORDINATION AND COOPERATION ON MUTUAL SECURITY MATTERS

A. Joint Coordination Committee

A Joint Coordination Committee (JCC) will be established to provide a forum for coordinating and cooperating on mutual security matters. The JCC will be an advisory body with representatives from the FRY, Serbia, Montenegro, Kosovo, and the ICPM during its period of operation in Kosovo. The JCC will meet not less than monthly and ad hoc sessions will be called within 48 hours at the request of any member. Hosting responsibilities for JCC meetings will alternate among the members.

B. Technical Assistance

Communal police units may request technical assistance from Federal and Republic authorities in cases requiring forensic assistance and other forms of specialized expertise.

VI. FEDERAL AND REPUBLIC POLICE OPERATIONS IN KOSOVO

A. Primary Responsibilities. Communal police units shall have primary responsibility for maintaining public safety and local law enforcement in Kosovo. Republic and FRY law enforcement authorities may only patrol, investigate, arrest or detain individuals, or otherwise operate individually or collectively within the territory of Kosovo in accordance with the provisions of this Agreement.

B. Designation of Units. The only Republic police authorities permitted to be stationed and operate within Kosovo as of [DATE - corresponding to Phase II] shall be units of the RJB.

C. Permissible Number and Type of Units.

1. Phase I [Time Period]. No more than [XXX] officers of the MUP may be stationed in Kosovo during this period. Such officers shall be headquartered and garrisoned in the following locations only:

[specify locations]

2. Phase II [Time Period]. No more than [XXX] officers of the RJB may be stationed in Kosovo during this period. Such officers shall be headquartered and garrisoned in the following locations only:

[specify locations]

D. Scope of Authority to Patrol

Those MUP units permitted to maintain a presence in Kosovo in accordance with section C shall patrol the territory of Kosovo subject to the following limitations:

1. In Category A areas [Kosovar Albanian majority villages.] [Here the MUP would could be restricted to certain major arteries, to certain times/frequencies, etc..]

2. In Category B areas. [Serb majority villages.] [Here the MUP might have more robust patrol authorities.]

[This section could also be **phased** to limit MUP patrol authorities as time goes by in either category or both.]

3. Republic police authorities not authorized to be stationed in Kosovo shall transit the territory of Kosovo in the course of their official duties only along routes that have been agreed upon between Republic authorities and the local police.

E. Scope of Criminal Investigative Jurisdiction

RJB units operating within Kosovo shall only have authority to investigate, and arrest and detain individuals in connection with, the following crimes:

1. Throughout Kosovo.

a. The sale and distribution of significant quantities of narcotics.

b. Kidnappings that may involve the transport of victims across the Kosovo border

c. Extortion

d. Smuggling

W/ local police?

Am
SP
out

re-write

- e. Counterfeiting Money
- f. Forgery of Government Documents
- g. Murder or Aggravated Assault of Republic or Federal authorities
- h. Destruction of Republic property
- i. Criminal violations of the civil and human rights of ethnic Serbs, including property crimes and crimes of violence committed against Serb victims because of their ethnicity *[The idea here is to assure the Serbs that they have recourse should their people be subject to harassment and persecution and the Albanian police fail to respond]*

[other???

2. In Category B areas during Phase I. [Here we could recognize that in Serb majority villages in Phase I, the MUP might have more robust authorities, essentially functioning as local police to guarantee the safety of Serbs - until majority Serb local police units are up and running and have earned the confidence of the Serb population.]

3. The jurisdiction of RJB units in Kosovo may be modified upon written agreement of the Parties. The Chief Prosecutor of Kosovo may, in his discretion, expand the investigative jurisdiction of the RJB where he determines that such expansion would be in the interest of the administration of justice.

4. Communal police units shall have concurrent jurisdiction over the offenses specified in paragraph 1. Communal police units and RJB units shall cooperate in cases of concurrent jurisdiction to the greatest possible extent, including through the establishment of joint task forces.

5. On a timely and regular basis, and at least weekly, RJB units shall notify the commander of communal police units in the commune in which they are stationed of all major investigations undertaken by the RJB within the commune.

6. RJB personnel stationed in Kosovo may carry individual sidearms and, with the express consent of [????] long-barreled weapons.

7. Officers of the RJB stationed in Kosovo must complete a

course of ICPM-approved training before beginning such duty.

8. With respect to offenses not specified in paragraph 3, Republic authorities may only engage in investigations within Kosovo with the express permission of the Chief Prosecutor of Kosovo. It shall be appropriate for the Chief Prosecutor to grant such permission where Serbian Republic authorities have demonstrated substantial reason to believe that:

- a. persons who committed crimes in Serbia, or who have information concerning crimes committed in Serbia, are resident in Kosovo; or
- b. persons resident in Kosovo are planning a crime, or have knowledge of a crime that will be committed, at least in part, in Serbia.

VII. SECURITY ON THE INTERNATIONAL BORDERS

The Government of the FRY will maintain official border crossings on its international borders. At each of these crossings, personnel from the organizations listed below will be present.

A. Republic Border Police

[This section , contemplating the displacement of Republic border police by Kosovo border police, was in our original draft. Should it stay? Or is this too much, politically unrealistic.]

1. Duties and Functions. The Kosovo Border Police (KBP) will:

- review immigration documents at the official border crossings on the territory of Kosovo;
- implement the immigration laws and regulations of the FRY within Kosovo;
- patrol the areas in the vicinity of the international borders within Kosovo to deter and detect illegal entry of persons and goods into the FRY.

Issuance of passports and visas will continue to be a FRY activity. The FRY will establish a passport office in Kosovo.

2. Structure and Composition:

The Kosovo Border Police will be headed by a Chief of the Kosovo Border Patrol who is appointed and removed by [???] in consultation with the Kosovo Security Commission. The Chief of the Border Police will report to [???]. The Chief will also serve as the primary liaison between Kosovo and the FRY on matters concerning border and immigration issues.

The membership of the Border Police will be representative of the ethnic composition of Kosovo. All Border Police candidates must attend border police training (which will include training on smuggling of goods and people) at the Kosovo police academy. This training will be based on FRY border and immigration law and the FRY will be invited to send trainers to the Kosovo academy to participate in the training.

3. Applicable Law. The Kosovo Border Police will administer FRY law in border and immigration matters.

4. Use of Force: The Kosovo Border Police will be armed with sidearms only. Officers are authorized to use force in performance of lawful duties. The force used must be the minimum force that is reasonable and necessary under the circumstances. Allegations of inappropriate use of force will be investigated by Kosovo's Internal Affairs Unit. The penalty for inappropriate use of force will be proportional to the seriousness of the offense and may include dismissal, criminal charges or civil penalties.

B. The Federal Army (VJ)

1. Units of the VJ shall continue to be stationed in Kosovo to protect the international borders and territorial integrity of the FRY in the following locations:

[specify locations??]

2. VJ units shall be permitted to patrol in Kosovo only within 5 km [??] of the international border. V

3. VJ units shall have no authority to arrest individuals within Kosovo. VJ units may detain individuals where permitted by law, but must transfer them for arrest to the Border Police or communal police [at the earliest possible time - need better language here].

4. In the case of serious civil disorder or other emergency, the VJ may patrol beyond the limits specified in paragraph 2 at the request of, and subject to limitations imposed by, communal police authorities or [Kosovo authority?]

5. The VJ may travel through the territory of Kosovo to reach its duty stations and garrisons. Such travel shall occur only along routes that have been agreed upon between the VJ and the communal police.

✓ CP to provide
sec. is necessary.

C. Customs Officers

1. The FRY Customs Service will continue to exercise customs jurisdiction at Kosovo's official international border crossings and in such customs warehouses as may be necessary within Kosovo.

2. The FRY Customs Service shall recruit officers of Kosovar Albanian ethnicity to work within the Customs Service and, within 8 months of the effective date of this agreement, each Customs team working at an international border or elsewhere within Kosovo shall include at least one officer of Kosovar Albanian ethnicity.

3. Kosovar Albanian officers of the Customs Service shall be trained and paid by the FRY.

4. Use of Force. Customs officers will be authorized to carry sidearms only. Customs officers are authorized to use force in performance of lawful duties. The force used must be the minimum force that is reasonable and necessary under the circumstances.

VIII. PURSUIT OF FLEEING SUSPECTS

A. In the course of pursuing a suspect who is fleeing their respective jurisdictions, the communal police and Republic authorities shall have the right to continue their pursuit across the Kosovo border into the jurisdiction of the other entity, if such pursuit is ongoing and uninterrupted. As soon as is practicable, the pursuing authorities shall notify the authorities of the territory into which the suspect has fled of the pursuit.

B. Republic authorities who pursue and capture a fleeing suspect in accordance with this section, in Kosovo territory

within 15 kilometers of the border, may arrest and detain such suspect without regard to sections IX(A) and IX(F).

C. Communal police authorities who pursue and capture a fleeing suspect in accordance with this section, in Republic territory within 15 kilometers of the border, may arrest and detain such suspect notwithstanding any other Republic laws.

IX. ARREST AND DETENTION

All individuals arrested or detained in accordance with the provisions below shall be maintained in custody within Kosovo until their release or sentencing to a term of imprisonment.

A. Except as noted in the following paragraphs, only officers of the communal police shall have authority to arrest and detain individuals in the territory of Kosovo. Immediately upon arrest, communal police authorities shall notify the designated representative of the national community to which the detainee belongs.

B. Border Police officers shall have authority to arrest and detain individuals who have violated criminal provisions of the immigration laws [other laws?]. Immediately upon arrest, Border Police officers shall notify the designated representative of the national community to which the detainee belongs.

C. Officers of the Customs Service shall have authority to arrest and detain individuals for criminal violations of the customs laws. Immediately upon arrest, Customs Service officers shall notify the designated representative of the national community to which the detainee belongs.

D. Officers of the RJB operating in Kosovo shall have authority to arrest and detain individuals in Kosovo only for those crimes and in those areas specified in paragraph VI(E). Immediately upon arrest, RJB officers shall notify the designated representative of the national community to which the detainee belongs.

E. FRY authorities. [At present, FRY law enforcement institutions are rather weak. But they could be beefed-up to do an end-run around any agreement. Do we need to say something about the FRY here and elsewhere? What??]

[Query whether notification of arrest in the graphs above should be to someone other than national communities?]

X. PROSECUTION OF CRIMES

1. Kosovo shall create an Office of the Prosecutor responsible for prosecuting individuals who violate the criminal laws of Kosovo before the Courts of Kosovo.
2. Kosovo shall appoint, and have the authority to remove, the Chief Prosecutor.
3. The Prosecutor-General of the FRY shall maintain offices in Kosovo to prosecute those crimes specified in Section [XXX] which are violations of federal law and which have been committed in Kosovo.

[This is obviously no more than a rudimentary placeholder. Need to deal with lots of issues here, including, default law to apply in the absence of kosovo laws, role of republic prosecutors where republic maintains criminal jurisdiction, etc..]

XI. TRANSFER OF DETAINEES

A. From Kosovo

In cases where Republic police authorities seek the arrest or detention of individuals in Kosovo in connection with violations of Republic laws, and to arrange for their prosecution in Serbia or Montenegro, the following procedures shall be observed:

1. Republic police authorities shall file a request with the Criminal Courts of Kosovo for the arrest and transfer of individuals that are reasonably believed to have violated criminal laws of the Republics.
2. Where the Court finds reason to believe that the suspect in question has committed the crimes detailed in the Republic request, it shall order the communal police to arrest and detain the suspect and transfer him or her to Republic police authorities, unless the Kosovo Chief Prosecutor certifies to the Court that the communal police authorities have arrested, or intend imminently to arrest, detain and prosecute the suspect for crimes in violation of the laws of Kosovo.
3. Where the Court finds grounds for the transfer of a suspect to Republic authorities, but the Kosovo Chief

Prosecutor elects to prosecute the suspect pursuant to paragraph 2, Kosovo authorities shall honor the Republic transfer request following either acquittal of the suspect, or his or her release from Kosovo custody and any period of incarceration.

B. To Kosovo

In cases where communal police authorities seek the arrest or detention of individuals in the Republics in connection with violations of Kosovo law, and to arrange for their prosecution in Kosovo, the following procedures shall be observed:

1. Communal police authorities shall file a request with Republic courts for the arrest and transfer of individuals that are reasonably believed to have violated criminal laws of Kosovo.

2. Where a Republic court finds reason to believe that the suspect in question has committed the crimes detailed in the Kosovo request, it shall order Republic authorities to arrest and detain the suspect and transfer him or her to communal police authorities, unless Republic prosecutorial authorities certify to the court that the Republic has arrested, or intends imminently to arrest, detain and prosecute the suspect for crimes in violation of Republic laws.

3. Where the Republic court finds grounds for the transfer of a suspect to communal police authorities, but the Republic prosecutor elects to prosecute the suspect pursuant to paragraph 2, Republic authorities shall honor the Kosovo transfer request following either acquittal of the suspect, or his or her release from Republic custody and any period of incarceration.

[note: this provision doesn't yet address transfers between kosovo and the FRY]

XII. JUDICIARY

A. Kosovo shall establish communal courts to hold civil and criminal proceedings and interpret the laws of Kosovo.

B. The judges of the Kosovo courts shall be appointed by . . . The composition of the Kosovo judiciary shall be ethnically representative of the population.

C. The FRY shall maintain Federal courts within Kosovo to adjudicate violations of Federal law which occur in Kosovo.

[note: what about Republic courts to deal with remaining republic criminal jurisdiction]

XIII. PRISONS

A. Kosovo and its constituent communes shall establish jails and prisons to accommodate the detention of criminal suspects and the imprisonment of individuals convicted of violating the laws of Kosovo.

B. Republic and Federal authorities shall either maintain facilities in Kosovo for the detention and imprisonment of individuals who have violated republic and federal law, or shall arrange for their detention or imprisonment in Kosovo facilities pursuant to a memorandum of understanding between the parties.

XIV. INTERNATIONAL ASSISTANCE

A. International Civilian Police Mission

To assist them in meeting their obligations, the Parties request that an international civilian police mission be established to carry out, within Kosovo, a program of assistance.

(Additional guidance on ICPM authorities to be provided)

B. Specific Responsibilities of the Parties

1. The Parties shall cooperate fully with the international civilian police mission and shall so instruct their law enforcement agencies.

2. The Parties shall not impede the movement of international civilian police personnel or in any way hinder, obstruct or delay them in the performance of their responsibilities. They shall allow these personnel immediate and complete access to any site, person, activity, proceeding, record or other item or event in Kosovo as requested by the mission in carrying out its responsibilities under this agreement. This shall include the right to monitor, observe and inspect any site or facility at which it believes that police, law enforcement, detention or judicial activities are taking place.

3. Upon request by the international civilian police mission, Kosovo shall make available for training qualified personnel, who are expected to take up law enforcement duties immediately following such training.

4. Kosovo shall facilitate the operations of the international civilian police mission in Kosovo, including by the provision of appropriate assistance as requested with regard to transportation, subsistence, accommodations, communications, and other facilities.

C. International Assistance Program

International donors will assist the implementation of this agreement by providing technical assistance, training and equipment to law enforcement bodies in Kosovo, coordinated with the international civilian police mission.

Team Pristina

12:15

Read HES
10/31/98 fel

Fax

To: S - Jim O'Brien	From: S/P - Jon Levitsky
Fax: (202) 647-1811/0122	Pages:
Phone:	Date: 10/29/98
Re: New Draft	CC:

☒ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

S
SS
SSC

Ops - Please pass to S - Jim O'Brien ASAP.

Jim -

Attached is the latest version. Would appreciate it if you could circulate this to the S/P team and others who may be interested. All input welcomed. Talk to you soon.

for
Mike Durkee

10/29 rev. b.

I. INTRODUCTION

1. All citizens in Kosovo have equal rights and duties as set forth in this Agreement and the international agreements specified in Annex 1. In Kosovo, members of each national community have additional rights as set forth below.
2. The authorities of Kosovo, acting in accordance with this Agreement, are autonomous. The Parties accept and will abide by the principle that their powers and authorities in Kosovo are as specified by this Agreement, which shall prevail over contradictory legal authority of any Party. The Parties shall take all necessary legal steps within their respective systems to carry out this Agreement.
3. The authorities of Kosovo shall follow principles of full respect for human rights, democracy, and national communities.
4. Citizens in Kosovo shall enjoy, without limitation, human and democratic rights and shall be given the opportunity to be represented in all institutions of authority.
5. Every person in Kosovo shall have the right to apply to international institutions[, including the European Court of Human Rights,] for the protection of their rights in accordance with the procedures of such institutions.
6. Each side will implement the Agreement in accordance with its procedures and international standards, including the Helsinki Final Act.

II. GOVERNANCE IN KOSOVO

PART I: GENERAL

1. Citizens in Kosovo shall govern themselves democratically through legislative, executive, judicial, and other institutions established in this Agreement. The rights and duties of citizens in Kosovo will include the right to democratic self-government and to participate in free and fair elections.

2. The basic [territorial] unit of [local] government will be the communes. All responsibilities not expressly assigned elsewhere by this Agreement will be the responsibility of the communes.

[Option 1:

3. The authorities of Kosovo shall have responsibility for all areas except the following, which shall be within the competence of the Federal Republic save as specified in paragraph four: (a) territorial integrity, (b) maintaining a common market within the Federal Republic of Yugoslavia, which power shall be exercised in a manner that does not discriminate against any particular region or area of the Federal Republic, (c) monetary policy, (d) defense, (e) foreign policy consistent with the Constitution of the Federal Republic of Yugoslavia, (f) customs services[, and (g) other functions specified in the Constitution of the Federal Republic of Yugoslavia].¹ Citizens in Kosovo shall continue to participate in areas reserved for the Federal Republic through their representation in Federal institutions.
4. Kosovo shall retain the following powers in the areas otherwise reserved for the Federal Republic:
- (a) No changes to the borders of Kosovo shall be made without the consent of the Kosovo Assembly and [President] [Presidency];
 - (b) No armed attacks shall be launched from the territory of Kosovo without the prior consent of the [President] [Presidency] of Kosovo. Deployment and use of forces in Kosovo shall be governed by Annex 2 of this Agreement;
 - (c) Kosovo officers and institutions shall have the authority to conduct foreign relations [in cultural, economic, and other fields] consistent with the present Constitution of the Federal Republic Yugoslavia;
 - (d) Citizens in Kosovo serving as Federal customs officers shall play a role in carrying out customs activities in Kosovo. Customs officers shall be representative of the national communities of Kosovo.]

[Option 2:

¹ Note: A proposal may be made to expand the list of Federal responsibilities

3. The authorities of Kosovo will not have responsibility in Kosovo for the following areas: (a) territorial integrity, (b) maintaining a common market within the Federal Republic of Yugoslavia, (c) monetary policy, (d) defense, (e) foreign policy except as consistent with the Constitution of the Federal Republic of Yugoslavia, (f) customs services[, and (g) other functions specified in the Constitution of the Federal Republic of Yugoslavia].² It is understood that Federal authorities will carry out these responsibilities. Citizens in Kosovo shall continue to participate in areas reserved for the Federal Republic through their representation in Federal institutions.]

The authorities of Kosovo shall not interfere in the additional rights described in Part V of this Agreement.

PART II: ASSEMBLY, [PRESIDENT] [PRESIDENCY], COUNCIL OF MINISTERS, AND ADMINISTRATIVE BODIES

The Assembly

1. There shall be an Assembly, which shall comprise [] Members.
 - (a) [] Members shall be directly elected in accordance with Article X(4) and Annex 4.
 - (b) The remaining [] Members shall be allocated [equally] [by the formula set forth in Annex 5] among the national communities with at least []% of the population of Kosovo, each of which shall elect Members democratically according to its own procedure. Each national community recognized under the principles set forth in Annex 5 shall have at least one Member in the Assembly.
2. The Assembly shall be responsible for enacting [Decisions] [Laws] of Kosovo, including those regulating relations in political, economic, social, and cultural areas consistent with this Agreement. Its areas of responsibility shall include:
 - The adoption of the [Basic Law] [Constitution] of Kosovo consistent with this Agreement, which shall not be subject to change or modification by authorities of the Republics or the Federal Republic of Yugoslavia;

² See supra, n.1.

- The adoption of regulations concerning the organization, procedures, and functioning of the administrative bodies of Kosovo;
 - The adoption of budgets and annual accounts of the Administrative Bodies and other institutions of Kosovo, with the exception of communal and national community institutions unless otherwise specified by this Agreement;
 - Cooperation with Federal Assemblies, and with the Assemblies of the Republics;
 - Ensuring freedom of movement of goods, services, and persons inside Kosovo and between Kosovo and other parts of the Federal Republic of Yugoslavia, consistent with Federal responsibilities;
 - Financing activities of Kosovo institutions, including by levying taxes or other charges;
 - Conduct of relations with foreign entities consistent with this Agreement and the [Basic Law] [Constitution] of Kosovo;
 - Coordination among communes or national communities when necessary, including the enactment of [Decisions] [laws] concerning inter-communal issues;
 - Designing programs for regional development;
 - Protection of the environment where inter-communal issues are involved; and
 - Confirmation of the Ministers and Justices of the Supreme Court and the Constitutional Court.
4. [Decisions] [Laws] of the Assembly shall be taken by majority of those present and voting, except as provided in paragraph 4.
5. When a majority of the Members of a national community selected pursuant to paragraph 1(b) assert that a proposed decision affects the vital interests of their national community, that decision shall require for approval, in addition to the majority specified in paragraph 3, a majority of the Members present and voting from that national community. If a majority of Members from the asserting community is not present and voting, the regular voting rule shall apply. Any other national community wishing to assert that the same proposed decision also affects its vital interests must make its claim within two days after the privilege is first asserted. After that two day period has elapsed, no national community may assert the privilege set forth in this paragraph with respect to the same proposed decision.

6. The following procedure shall be used to resolve disputes regarding the exercise of the national community privilege set forth in paragraph 4:

- (a) The national community or communities asserting the privilege will give reasons to the Assembly explaining its concerns. Members of the Assembly supporting the proposed decision will be given an opportunity to respond. The [President] [Presidency] of Kosovo shall mediate the dispute and attempt to reach a settlement agreeable to all affected national communities:

[Option 1:

- (b) If mediation does not produce a mutually agreeable result within seven days, there shall be a vote of the Assembly. The proposed decision shall take effect if it receives the support of [4/5] of the Members of the whole Assembly.

[Option 2:

- (b) If mediation does not produce a mutually agreeable result within seven days, the matter will be given to the Constitutional Court for decision. The Court shall determine whether as a matter of law the vital national interests of the community or communities asserting the privilege set forth in paragraph 4 are [affected] [substantially harmed] by the proposed decision. The Court shall hear argument and rule within ten days.
- (c) The decision of the Court may be appealed to the [President of the European Court of Human Rights] [Special Court provided for in this Agreement].]

7. A majority of Members shall constitute a quorum. The Assembly will decide its own rules of procedure. Members of the Assembly shall be immune from civil or criminal proceedings on the basis of opinions expressed or votes cast in the Assembly.

8. The Assembly shall elect from among its Members a President, two Vice-Presidents, and other leaders as it deems proper. Each national community covered by paragraph 1(b) shall be represented in the leadership.

- (a) The President of the Assembly shall represent the Assembly, call its sessions to order, chair its meetings,

coordinate the work of any Committees it may establish, and perform other tasks prescribed by the rules of procedure of the Assembly.

[Option 1:

9. The President of the Assembly may not be from the same national community as the [President] [Chair of the Presidency] of Kosovo.]

[Option 2:

No text.]

[President] [Presidency] of Kosovo

[Option 1:

10. There shall be a President of Kosovo.

- (a) The President shall be selected for a [three] year term. No person may serve more than two terms as President. The President shall be elected directly by the people of Kosovo.]

[Option 2:

9. There shall be a President of Kosovo.

- (a) The President shall be selected for a [three] year term. No person may serve more than two terms as President. The President shall be elected [by vote of the Assembly.] [by majority vote of the communal governments. Each commune shall receive one vote, and shall cast that vote as it decides by a majority vote of the communal assembly.]

[Option 3:

9. Kosovo shall have a collective Presidency, which shall consist of one Serbian of Kosovo, one Albanian of Kosovo[, and others].

- (a) Each member of the Presidency shall be elected for a [three] year term. No person may serve more than two terms as a member of the presidency. Candidates for the

Presidency shall run for office together on interethnic slates. A slate shall be selected for the Presidency directly by the people of Kosovo.

- i) There shall be a Chair of the Presidency, who shall be selected from among the members of the Presidency by majority vote of the Assembly.
 - ii) The Presidency shall decide its own rules of procedure. It shall endeavor to act by consensus. Subject to the privilege set forth in section (a)(iii) of this paragraph, decisions may be taken [by the Chair] [by majority vote] where all efforts to achieve consensus have failed.
 - (iii) Within four days of the adoption of a Decision of the Presidency, a Member of the Presidency may assert that the Decision affects a vital interest of his or her national community. The issue shall be promptly referred to [the National Council of] his or her national community. If the national community affirms within ten days by a decision taken under its own democratic procedures that its vital interests are affected, the Decision shall be rescinded.³ [Dissenting Members of the Presidency may petition the Constitutional Court to have a Decision reinstated. The Court shall decide within ten days whether the vital interests of the national community are [substantially] affected as a matter of law.] [The decision of the Constitutional Court may be further appealed by either party to the Special Court, which shall rule within ten days.]]
- (b) The [President] [Presidency] shall be responsible for:
- Representing all citizens in Kosovo before any international or Federal body, or any body of the Republics.
 - Proposing to the Assembly candidates for Prime Minister and Justices of the Supreme Court and the Constitutional Court.
 - Meeting regularly with [the National Councils and with other] democratically selected representatives of the national communities and other persons.

³ Note: The privilege to block a Decision of the Presidency as affecting a vital interest could be limited to certain categories of important Decisions. This will be a subject for further discussion.

- Conducting foreign relations consistent with the Constitution of the Federal Republic of Yugoslavia.
- Concluding agreements on behalf of Kosovo, consistent with the Constitution of the Federal Republic of Yugoslavia, after they are approved by the Assembly.
- Serving or designating a representative to serve on the Joint Commission and Joint Council established by Article VIII of this Agreement.
- Meeting regularly with the President of the Federal Republic of Yugoslavia, the President of Montenegro, and the President of Serbia.

Council of Ministers

10. Executive power shall be exercised by the Council of Ministers.

- (a) The Council of Ministers shall consist of a Prime Minister and [] Ministers, including at least one person from each national community.
- (b) The candidate for Prime Minister shall put forward a list of Ministers to the Assembly. The Prime Minister and his or her proposed Ministers shall be approved by a majority of those Members present and voting in the Assembly. In the event that the Prime Minister is not able to obtain a majority for the Council of Ministers, the [President] [Presidency] shall propose a new candidate for Prime Minister within ten days.
- (c) The Council of Ministers shall be responsible for implementing and enforcing [Decisions] [laws] of the Assembly and actions of other government authorities when such responsibilities are devolved by those authorities. Ministers of the Council shall head the Administrative Bodies of Kosovo, and shall also have independent authority to propose [laws] [Decisions] to the Assembly.
- (d) The Prime Minister shall call meetings of the Council of Ministers, represent the Council of Ministers in appropriate settings, and organize its work. Decisions of the Council shall require a majority of Members present and voting. The Prime Minister shall cast the deciding vote if the Ministers are equally divided. The Council shall otherwise decide its own rules of procedure.

Administrative Bodies

11. Administrative Bodies shall be responsible for implementing [Decisions] [laws] of Kosovo and, where devolved to them, of other authorities.
 - (a) Employees of administrative bodies shall be fairly representative of the population of Kosovo.
 - (b) Any citizen of Kosovo claiming to have been aggrieved by the decision of an administrative body shall have the right to judicial review of that decision. The Assembly shall enact administrative law to regulate this review.
 - (c) An administrative body of Kosovo shall have responsibility for all enforcement matters in Kosovo, in accordance with Annex 2 to this Agreement.

PART III: COURTS IN KOSOVO

General

1. Kosovo and its Communes shall establish courts for Kosovo. There shall be a Constitutional Court, a Supreme Court, and Communal Courts. [There shall also be a Special Court for purposes of monitoring the implementation of this Agreement.] Justices and judges of the Kosovo courts shall not be held criminally or civilly liable for any acts carried out within the scope of their duties.
2. The courts of Kosovo shall have jurisdiction over all legal matters arising under the [Basic Law] [Constitution] of Kosovo and [Decisions] [laws] of the Assembly, and international law to be applied in Kosovo including, but not limited to, matters relating to the application and interpretation of the international human rights agreements listed in Annex 1.
3. The courts of Kosovo shall also have jurisdiction as specified in this paragraph over matters arising under federal law or raising questions of federal law.
 - (a) Kosovo courts shall adjudicate all civil cases in Kosovo arising under Federal law or raising federal law questions in the first instance. Unless otherwise specified in this Agreement, Kosovo courts shall also adjudicate criminal cases in Kosovo arising under federal law. Disputes presenting federal questions may be

appealed to the Federal courts after all appeals available under the Kosovo system have been exhausted. Kosovo courts shall be the final authority as to the meaning of Kosovo legal authorities.

[Option 1:

- (b) Those federal criminal matters specified in []⁴ shall be adjudicated entirely by the courts of the Federal Republic of Yugoslavia. Appropriate Federal courts of first instance shall be established in Kosovo for this purpose. The courts of the Federal Republic shall conduct these proceedings in a manner fully in keeping with all international human rights standards.]

[Option 2:

- (b) Those federal criminal matters specified in []⁵ shall be adjudicated in the first instance by the courts of the Republic of Serbia, with appeal to the Federal courts. The courts of the Republic of Serbia and the Federal Republic shall conduct these proceedings in a manner fully in keeping with all international human rights standards.]

Constitutional Court and Supreme Court

4. Composition. The Constitutional Court shall consist of [five] Justices. The Supreme Court shall consist of [nine] Judges.

- (a) The Justices and Judges shall be distinguished jurists of the highest moral character. The two tribunals shall be broadly representative of the national communities of Kosovo. [Each national community representing at least []% of the population of Kosovo shall have at least one Justice and one Judge on each of the two tribunals.] [Another procedure to allocate seats.]

- (b) The Justices and Judges shall each be selected for a term of five years, and may not be reappointed. They shall be required to retire at age 70, and may resign at any time. Justices and Judges may otherwise be removed only for cause. Removal for cause shall require the consensus of the other Justices or Judges of the tribunal.

⁴ This section of the Agreement will set forth a list of serious crimes with cross-border implications, such as counterfeiting of money and narcotics trafficking. The list will be a subject for negotiation between the parties.

⁵ Id.

5. Jurisdiction of the Constitutional Court.

The Constitutional Court shall have sole authority to resolve disputes relating to the [Basic Law] [Constitution] of Kosovo. That authority shall include, but is not limited to, determining whether decisions or actions of the [President] [Presidency], the Assembly, the Council of Ministers, the Communes, and the National Communities are compatible with the [Basic Law] [Constitution] of Kosovo.

The Court shall also have jurisdiction to decide whether the actions of any official or institution are compatible with the European Convention for Human Rights and its Protocols, and with the other human rights agreements listed in Annex 1, and with the Human Rights and Fundamental Freedoms and rights of National Communities set forth in this Agreement.

- (a) Matters may be referred to the court by the [President] [Presidency] of Kosovo, the President or Vice-Presidents of the Assembly, the Prime Minister, the Ombudsman, the communal assemblies and councils, and any national community acting according to its democratic procedures.
- (b) Any Kosovo court, which finds in the course of adjudicating a matter that the dispute depends on the answer to a question within the Court's jurisdiction, may refer the issue to the Court for a preliminary decision.
- (c) The Court shall have appellate jurisdiction over cases raising matters within its authority after all other avenues for appeal have been exhausted, including the Supreme Court.
- (d) [Questions relating to the compatibility of official actions with the European Convention for Human Rights and its Protocols may be further appealed to the European Court of Human Rights. In such matters, the decisions of the European Court shall be final.] [Where a matter falls within the jurisdiction of the Special Court, appeals may also be taken to that tribunal consistent with this Agreement.] Questions of Federal law may be appealed to the courts of the Federal Republic of Yugoslavia.

6. Jurisdiction of the Supreme Court. The Supreme Court shall hear appeals from the Communal Courts. It shall be the final appellate tribunal of Kosovo for all matters of Kosovo law

falling outside the jurisdiction of the Constitutional Court [and the Special Court]. Questions of Federal law may be appealed to the courts of the Federal Republic of Yugoslavia.

7. Functioning. The two tribunals shall adopt decisions by majority vote of all the Justices or Judges. They shall hold public proceedings, and issue published opinions setting forth the reasons for their decisions along with any dissenting views.

Communal Courts

8. The Communes shall establish such tribunals of first instance as they deem proper to address matters falling within the jurisdiction of the Kosovo courts. Judges shall be unbiased, and a representative percentage shall be selected from each national community in the Commune after consultation with the national communities.

National Community Dispute Settlement Mechanism

9. Each national community may establish procedures for resolving conflicts concerning inheritance, family law, matrimonial relations, tutorship, adoption, civil lawsuits as decided by the Assembly of Kosovo, and criminal cases for which imprisonment of up to one year is prescribed in the currently applicable penal code.
- (a) These procedures must ensure that practices are consistent with internationally recognized human rights. They shall have jurisdiction only when all parties to a dispute agree.
 - (b) Decisions of the national community dispute resolution mechanism shall be honored by other courts in Kosovo and the Federal Republic of Yugoslavia in accordance with applicable rules.

[Special Court]

10. General. A Special Court shall be established to ensure compliance with this Agreement. Three judges of the Special Court shall be elected by the Chamber of Citizens of the Federal Republic of Yugoslavia and three by the Assembly of Kosovo. During a period of [twenty] years from the entry into force of the Agreement, three judges appointed by the European Court of Human Rights following consultations with the

Government of the Federal Republic of Yugoslavia and Kosovo Council of Ministers shall sit on the Court. These judges shall not be citizens of the Federal Republic of Yugoslavia or of any neighboring state. The Special Court shall establish its own rules of procedure.

11. Jurisdiction and Powers. The Special Court shall have jurisdiction to decide matters arising under this Agreement and its Annexes. In particular, it shall hear cases under the following circumstances:

- (a) At the request of the President, the Government, the Chamber of the Republics, or the Chamber of Citizens of the Federal Republic of Yugoslavia; of the President, the Government, or the National Assembly of the Republic of Serbia; of the [President] [Chairman of the Presidency], the Council of Ministers, the Assembly, or the Ombudsman of Kosovo; or the Chair of the Joint Commission:
 - (i) In case of disagreement as to the compatibility of Federal, Republic of Serbia, or Kosovo legislation or of the Federal or Republic of Serbia Constitution or the [Basic Law] [Constitution] of Kosovo with this Agreement; or
 - (ii) In case of disagreement as to the rights and obligations of the Federation, the Republic of Serbia, or Kosovo under this Agreement.
- (b) At the request of the [President] [Chair of the Presidency], the Council of Ministers, the Assembly, the Ombudsman, a National Community, a Commune, or the Chair of the Joint Commission in the case of a disagreement as to the rights or obligations of the requesting body under the Agreement.
- (c) Upon appeal from a ruling of the Constitutional Court as to whether a proposed Decision [or law] of the Assembly [substantially] affects the vital interest of a national community.
- (d) Following the exhaustion of other legal remedies, at the request of any natural or legal person or association on a complaint that any rights granted by this Agreement, including by the provisions of international treaties incorporated herein, have been violated by a public authority.

12. If a court on the territory of the Federal Republic of Yugoslavia considers that a law, on whose validity its ruling in a case before it depends, may be inconsistent with this Agreement, it shall stay the proceedings and seek a ruling from the Special Court as to the compatibility of the law with this Agreement.
13. If the Constitutional Court of the Federal Republic of Yugoslavia considers that a provision of the Federal Republic of Yugoslavia Constitution, on whose validity its ruling in a case before it depends, may be inconsistent with this Agreement, or if the Constitutional Court of the Republic of Serbia considers that a provision of the Constitution of the Republic of Serbia, on whose validity its ruling in the case before it depends, may be inconsistent with this Agreement, it shall stay the proceedings and ask for a ruling by the Special Court.
14. Decisions of the Special Court shall be final and binding, and shall be executed by all public authorities on the territory of the Federal Republic of Yugoslavia.]

PART IV. THE OMBUDSMAN

General

1. There shall be an Ombudsman of Kosovo, who shall monitor the protection of human rights and fundamental freedoms and the protection of the rights of national communities under this Agreement.
 - (a) The Ombudsman shall be an eminent person of high moral standing who possesses a demonstrated commitment to human rights. He or she shall be appointed for a non-renewable [four] year term. The Ombudsman shall be independently responsible for choosing his or her own staff. He shall have two Deputies, one drawn from each of the two national communities representing the largest percentage of the population of Kosovo.
 - (b) The first Ombudsman shall be appointed by the Federal Republic of Yugoslavia from a list of candidates prepared by [the Chairman-in-Office of the Organization for Security and Cooperation in Europe (OSCE).] [the President of the European Court of Human Rights.] Federal authorities shall consult

with the other parties to this Agreement and the National Communities of Kosovo to guide their selection. The initial appointee may not be a citizen of the Federal Republic of Yugoslavia or of any neighboring state.

- (c) Subsequent appointees shall be selected on the basis of consensus between the [President] [Presidency] of Kosovo and the President of the Federal Republic of Yugoslavia, after consultation with the national communities of Kosovo.
2. The Office of the Ombudsman shall be an independent agency of Kosovo. In carrying out its mandate, no person, institution, or entity of the Parties may interfere with its functions.
3. The salaries and expenses of the Ombudsman and his or her staff shall be determined jointly by the Federal Republic of Yugoslavia and Kosovo. The salaries and expenses shall be fully adequate to implement the Ombudsman's mandate.
4. The Ombudsman and members of his or her staff shall not be held criminally or civilly liable for any acts carried out within the scope of their duties. When the Ombudsman and members of the staff are not citizens of the Federal Republic of Yugoslavia, they and their families shall be accorded the same privileges and immunities as are enjoyed by diplomatic agents and their families under the Vienna Convention on Diplomatic Relations.

Jurisdiction

5. The Ombudsman shall consider:
 - (a) alleged or apparent violations of human rights and fundamental freedoms in Kosovo, as provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto, the international agreements listed in Annex 1 of this Agreement, and Article IV of this Agreement, and
 - (b) alleged or apparent discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status arising in the enjoyment of any of the rights and freedoms provided for in the international agreements listed in Annex 1 of this Agreement, where such violation is alleged or appears to have been committed by the Parties, including by any official,

institution, or entity of the Parties, or any individual acting under the authority of such an official, institution, or entity, and

- (c) violations of the rights of National Communities specified in this Agreement.

- 6. All citizens in Kosovo shall have the right to submit complaints to the Ombudsman. The Parties agree not to take any measures to punish persons who intend to submit or who have submitted such allegations, or in any other way to deter the exercise of this right.

Powers and Authority

- 7. The Ombudsman shall investigate alleged violations falling within the jurisdiction set forth in paragraph five. He may act either on his own initiative or in response to an allegation presented by any Party or person, non-governmental organization, or group of individuals claiming to be the victim of a violation or acting on behalf of alleged victims who are deceased or missing. The work of the Ombudsman shall be free of charge to the person concerned.
- 8. The Ombudsman shall determine which allegations warrant investigation and in what priority, giving particular priority to allegations of especially severe or systematic violations.
- 9. The Ombudsman shall have complete, unimpeded, and immediate access to any person, place, or information upon his or her request.
 - (a) He shall have access to and may examine all official documents, including classified documents, and he can require any person, including officials of Kosovo, the Republics, and the Federal Republic of Yugoslavia to cooperate by providing relevant information, documents, and files.
 - (b) The Ombudsman may attend administrative hearings, meetings of other Kosovo institutions, and meetings and proceedings of the Republics and the Federal Republic of Yugoslavia in order to gather information.
 - (c) He may examine facilities and places where persons deprived of their liberty are detained, work, or are otherwise located.

- d The Ombudsman and staff shall maintain the confidentiality of all confidential information obtained by them, unless the Ombudsman determines that such information is evidence of a violation of rights falling within his or her jurisdiction, in which case that information may be revealed in public reports or appropriate legal proceedings.
 - e Where an official impedes an investigation by refusing to provide necessary information, the Ombudsman shall contact that official's superior or the public prosecutor for appropriate penal action to be taken in accordance with the law. Where the competent authority fails to take action, the Ombudsman may, in substitution for that authority, institute disciplinary proceedings against the official responsible or, where appropriate, before a criminal court.
10. The Ombudsman shall issue findings and conclusions in the form of a published report promptly after concluding an investigation.
- a A Party, institution, or official in Kosovo identified by the Ombudsman as a violator shall, within a period specified by the Ombudsman, explain in writing how it will comply with any prescriptions the Ombudsman may put forth for remedial measures.
 - b In the event that a person or entity does not comply with the conclusions and recommendations of the Ombudsman, the report shall be forwarded for further action to the Joint Commission set forth in Article VIII of this Agreement, to the Presidency of the appropriate Party, and to any other officials or institution that the Ombudsman deems appropriate.
11. The Ombudsman shall have the right to appear and intervene before any Federal, domestic, or (consistent with the rules of such bodies) international authority upon his or her request [including the Special Court].
- a The right of intervention shall include the power to appear in support of the application of any person claiming a violation of the rights set forth in paragraph five before any tribunal or proceeding of Kosovo, the Republic, or the Federal Republic of Yugoslavia.

- (b) The Ombudsman may support appropriate applications to [the European Court of Human Rights and other] international bodies.
- (c) The Ombudsman shall promptly report to the International Criminal Tribunal for the Former Yugoslavia evidence of war crimes, crimes against humanity, and other fundamental violations of international humanitarian law that may fall within the jurisdiction of that tribunal.

PART V: COMMUNES

[Option 1:

1. Kosovo shall have the existing communes.]

[Option 2:

1. Kosovo shall have [] communes within the boundaries specified in Annex 6 of this Agreement.]

[Option 1:

2. Communes may by mutual agreement form self-administering regions comprising multiple communes. These regions shall have the authorities of communes, unless the agreement establishing them expressly determines otherwise.]

[Option 2:

2. Communes may develop relationships among themselves for their mutual benefit.]
3. Each commune shall have an Assembly, a Council, and such executive bodies as the commune may establish. Each national community with at least []% of the population of the commune shall be represented on the Council in proportion to its share of the regional population or by one member, whichever is greater.
4. The communes shall have exclusive responsibility for:
 - Law enforcement, as specified in Annex 2 of this Agreement.
 - Regulating and, when appropriate, providing child care.

- Establishing and regulating the work of medical institutions and hospitals. Special arrangements will be made for institutions owned by government entities.
 - Providing and regulating education, consistent with the rights and duties of national communities.
 - Protecting the communal environment.
 - Regulating commerce and privately owned stores.
 - Regulating hunting and fishing.
 - Planning and carrying out public works of communal importance, including roads and water supplies, and participating in the planning and carrying out Kosovo-wide public works projects in coordination with other communes and Kosovo authorities.
 - Regulating land use, town planning, building regulations, and housing construction.
 - Designing and implementing programs of economic, scientific, technological, demographic, and social development, and programs for the development of agriculture and of rural areas.
 - Developing programs for tourism, the hotel industry, catering, and sport.
 - Organizing fairs and local markets.
 - Organizing public services of communal importance, including fire, emergency response, and police consistent with Annex 2 of this Agreement.
 - Financing the work of communal institutions, including raising revenues, taxes, and preparing budgets.
5. Each commune shall conduct its business in public and shall maintain publicly available records of its deliberations and decisions.
6. Members of national communities may avail themselves of Federal institutions and institutions of the Republics, in accordance with the procedures of those institutions and without prejudice to the ability of communes to carry out their responsibilities.

IV. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

1. The Parties shall ensure that the highest level of internationally recognized human rights and fundamental freedoms is secured for the people of Kosovo. The Parties shall take every measure to ensure the protection and preservation of these rights.

- (a) Applicable rights and freedoms shall include those specified in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, and the other international agreements listed in Annex 1 of this Agreement including, but not limited to, those to which the Federal Republic of Yugoslavia is already a party.
 - (b) All competent authorities shall cooperate with and provide unrestricted access to the supervisory bodies established by any of the international agreements listed in Annex 1 of this Agreement and the International Criminal Tribunal for the Former Yugoslavia.
2. The rights referred to in paragraph 1 shall be directly applicable in Kosovo and in any matter involving a person of Kosovo, and shall take precedence over all other law of the Parties. All courts, agencies, government institutions, and instrumentalities of the Parties and all of their officials and employees shall conform to these human rights and fundamental freedoms. Applicable rights include:
- (a) The right to life.
 - (b) The right not to be subjected to torture or to inhuman or degrading treatment or punishment.
 - (c) The right not to be held in slavery or servitude or to perform forced or compulsory labor.
 - (d) The right to peacefully assemble and freely associate with others.
 - (e) The right to liberty and security of person.
 - (f) Freedom of thought, conscience, and religion.
 - (g) Freedom of expression, and the right to freely receive information and ideas without interference or threats.
 - (h) The right to a fair hearing in civil and criminal matters, and other rights relating to criminal proceedings.
 - (i) The right to liberty and security of person.
 - (j) The right to marry and found a family.

- (k) The right to property.
 - (l) The right to education.
 - (m) The right to liberty of movement and residence.
3. The rights and freedoms provided for in this Article and detailed in the international agreements listed in Annex 1 shall be enjoyed without discrimination on any ground such as race, color, language, religion, political or other opinion, national or social origin or membership in a particular national community, property, birth, or other status.

V. RIGHTS AND DUTIES OF MEMBERS OF NATIONAL COMMUNITIES

1. Members of the national communities shall have additional rights determined by this Agreement in order to preserve and express their national, cultural, religious, and linguistic identities in accordance with international standards and the Helsinki Final Act.

2. The national communities shall be legally equal and shall not use their additional rights so as to endanger the rights of other national communities or the rights of citizens.

[Option 1:

3. Each national community shall select through democratic means, in accordance with procedures it shall decide, institutions to administer its affairs in Kosovo.]

[Option 2:

3. Each national community shall select through democratic means, in accordance with procedures it shall decide, a National Council to administer the affairs of the community in Kosovo. Each Council will establish its own executive institutions and procedures.]
4. The national communities shall be subject to [Decisions] [Laws] of the Assembly of Kosovo, provided that any action concerning national communities must be nondiscriminatory. The Assembly shall decide upon a procedure for resolving disputes between national communities.

5. The additional rights of the national communities are to:

- (a) preserve and protect their national cultures, including by:
 - using their languages and alphabets.
 - inscribing local names of towns and villages, of squares and streets, and of other topographic names in the language and alphabet of the national community [in addition to signs in Serbian,] consistent with decisions about style made by the communal institutions.
 - providing information in the language and alphabet of the national community.
 - establishing educational, cultural and religious associations, for which relevant authorities will provide financial assistance.
 - enjoying unhindered contacts with their respective national communities outside the Federal Republic of Yugoslavia.
 - using and displaying national symbols [as well as the symbols of the Federal Republic of Yugoslavia and Serbia];
 - providing for education, in particular for schooling in their own language and alphabet and in national culture and history.
 - protecting national practices on family law by, if the community decides, arranging rules in the field of inheritance, family, and matrimonial relations; tutorship; and adoption.
 - the preservation of sites of religious, historical, or cultural importance.
 - implementing public health and social services.
 - operating religious institutions in cooperation with religious authorities.
- (b) adopt procedures for dispute resolution, as provided in Article II, Part III(9) of this Agreement;
- (c) be guaranteed at least one radio and TV frequency, which it shall administer subject to non-discriminatory, technical standards;
- (d) finance activities of the national communities by collecting charges [a National Council] [the national community] decides to levy on members of its own community.

6. Each national community may exercise these additional rights through Federal institutions, or the institutions of the Republics.
7. Members of national communities will also be guaranteed:
 - the right to participate in regional and international non-governmental organizations in accordance with procedures of these organizations; and
 - equal access to employment in public services.

VI. REPRESENTATION OF KOSOVO IN FEDERAL INSTITUTIONS

1. The participation of Kosovo in Federal institutions shall be discussed in accordance with Article XI(3).
2. The following is without prejudice to the rights of persons in Kosovo to decide whether to accept the offer and to the review described in section XI(3):
 - Kosovo shall be offered at least [thirty] deputies in the House of Citizens of the Federal Assembly.
 - Each national community in Kosovo shall be offered at least one place in the Federal Government.
 - Each national community in Kosovo shall be offered at least one judge on the Federal Court of the Federal Republic.
 - The [President] [Presidency] of Kosovo shall be a full member of the Supreme Defense Council of the Federal Republic of Yugoslavia.

VII. FINANCING AND OTHER ECONOMIC ISSUES

Financing

1. The authorities established to levy and collect taxes and other charges are set forth in this Agreement. Except if otherwise expressly provided in this Agreement, those bodies have the right to keep all revenues from their own taxes or other charges.

2. In recognition of the fact that this Agreement confers new responsibilities upon authorities in Kosovo, [Republic and] Federal authorities shall examine how to provide resources necessary for the conduct of the new responsibilities. These resources shall include funds (including tax remission), equipment, and training.
3. The authorities of Kosovo shall have a part of revenue otherwise derived in Kosovo (including duties or fees). Authorities collecting such revenue shall be representative of the population in Kosovo. Federal taxation and revenue collection in Kosovo, and the rules governing any additional contributions to Federal Republic of Yugoslavia institutions from which Kosovo benefits, shall be governed by the terms and conditions specified in Annex 3 of this Agreement.
4. Federal and other authorities shall also facilitate, to the extent of their respective powers, the delivery of resources from international sources to Kosovo.

Other Economic Issues

5. Annex 3 of this Agreement shall specify, in terms consistent with this Agreement, arrangements for the disposition of government owned assets in Kosovo; the resolution of disputes over pension and social insurance contributions; and the resolution of other matters relating to economic relations between the parties.⁶

VIII. JOINT COMMISSION AND JOINT COUNCIL

Joint Commission

1. A Joint Commission will serve as the central mechanism for monitoring and coordinating the implementation of this Agreement. It will be comprised of Federal [and Republic] representatives, representatives of the national communities in Kosovo, representatives of Kosovo political institutions including the [President] [Presidency] of Kosovo and the Ombudsman, and international representatives (including the Kosovo Verification Mission, the Contact Group, and others as agreed).

[Option 1:

⁶ Note: The parties are encouraged to convene expert working groups forthwith to examine these technical issues in detail.

2. The members of the Joint Commission shall select a Chair to organize its work.]

[Option 2:

2. A person of high moral character will be selected to serve as Chair of the Joint Commission. The Chair will coordinate the work of the Joint Commission, and shall have other powers and authorities as set forth in this Agreement.
 - (a) For [ten] years following the entry into force of this Agreement, the Chair shall be a person chosen by the Chair in Office of the OSCE after consultation with the Parties. During this initial period, the Chair of the Joint Commission shall not be citizen of the Federal Republic of Yugoslavia or a surrounding state. The Chair shall organize the work of the Joint Commission, and supervise the overall implementation of this Agreement.
 - (b) After the initial period, the Chair shall be selected by consensus between the President of the Federal Republic of Yugoslavia, and the [President] [Presidency] of Kosovo.]
3. The sides shall cooperate completely with the Commission and its Chair. The Joint Commission as a whole and the Chair individually on his or her own initiative shall have safe, complete, and unimpeded access to all places, persons, and information (including documents and other records) both within Kosovo and, where the Joint Commission or the Chair deem it relevant, within the Federal Republic.

Joint Council

4. The national communities shall establish a Joint Council to coordinate their activities under this Agreement, and to provide an informal mechanism for the resolution of disputes. The Joint Council shall consist of one member from each of the national communities. It shall meet no less than once each month. The Joint Council shall encourage the creation of similar mechanisms at the communal level, building on the example of local commissions established pursuant to Article IX(5) of this Agreement.

IX. CONFIDENCE-BUILDING MEASURES

1. Violence in Kosovo shall cease. Alleged violations of the cease-fire shall be reported to international observers and will not be used to justify violence in response. All persons held by the Parties without charge shall be released.
2. [An agreement on the status of security forces in Kosovo, to be added after expert consultations.]
3. [An agreement on the status of police forces in Kosovo, to be added after expert consultations.]
4. Each side will encourage all persons displaced during the conflict to return to their homes as the security situation permits. There will be no impediments to the normal flow of goods into Kosovo. International humanitarian organizations will be freely permitted to provide building materials and other assistance to persons returning to their homes in Kosovo.
5. In each community a local commission, representative of all national communities there, will assist international humanitarian agencies in the delivery and distribution of food, medicine, clothes, construction materials, the restoration of electricity and water supply, and in encouraging returns.
6. International personnel, including the Kosovo Verification Mission and members of non-governmental organizations, shall be allowed unfettered access, at any time, throughout Kosovo. It is expected that international personnel will be present at all times in selected communities.
7. Each side shall respect its obligation to cooperate in the investigation and prosecution of war crimes, crimes against humanity, and other violations of international humanitarian law. In acknowledgement that allegations of atrocities cannot be resolved to the satisfaction of the other, each side will allow complete, unimpeded, and unfettered access to international experts-including forensics experts-authorized to investigate such allegations. Each side will provide fully support and cooperation to the activities of the International Criminal Tribunal for the Former Yugoslavia.

[Option 1:]

8. Republic and Federal authorities shall reexamine, for extraordinary mitigation of punishments, all sentences

pronounced on members of national communities from Kosovo for acts motivated by political goals.])

[Option 2:

8. There shall be a general amnesty for all persons in Kosovo accused or convicted of committing politically motivated crimes. This amnesty shall not apply to those accused or convicted of committing war crimes, crimes against humanity, or other fundamental violations of international humanitarian law.]

X. IMPLEMENTATION PERIOD

1. This Agreement shall be implemented as quickly as possible. The signatories of this Agreement take the obligation to allow, insofar as possible, its adequate implementation even before the adoption and undertaking of all acts and measures fixed in the Agreement.
2. The sides will start without delay on any and all legal changes necessary for the full implementation of this Agreement. They acknowledge that complete implementation will require the adoption of necessary state regulations and other general acts, of the [Basic Law] [Constitution] of Kosovo, political acts and measures, and the election and establishment of institutions and bodies set forth in this Agreement. This Agreement shall take precedence over all existing legal authorities of the parties.
3. Each national community in Kosovo is authorized to start exercising the additional rights determined by this Agreement, to the extent possible, immediately upon signature.
4. Within [nine] months, there shall be elections in accordance with Annex 4 of this Agreement for all authorities established by this Agreement, according to an electoral list prepared to international standards. The Government of the Federal Republic of Yugoslavia hereby invites the Organization for Security and Cooperation in Europe (OSCE) to supervise those elections to ensure openness and fairness.
5. Under the supervision of the OSCE and with the participation of Kosovo authorities, Federal authorities shall conduct an objective and free census of the population in Kosovo, which

shall be carried out when the OSCE determines that conditions allow an accurate census.

- (a) The first census shall be limited to name, place of birth, address, gender, age, citizenship, nationality, and religion.
 - (b) The institutions and authorities of the parties shall provide the institutions of Kosovo with all records necessary to conduct the census, including data about places of residence, citizenship, voters' lists, and other information.
6. The signatories of this Agreement shall provide active support, cooperation, and participation for the successful implementation of the Agreement.
 7. Laws and institutions currently in place in Kosovo shall remain until replaced by a decision of a competent body established by this Agreement. The initial elections called for in paragraph four of this Article will be conducted pursuant to the procedures specified in Annex 4.

XI. AMENDMENTS

1. Amendments to the Agreement shall be adopted by signature of all the parties.
2. Each signatory may propose amendments at any time and will consider and consult with the other with regard to proposed amendments.
3. In three years, the sides will undertake a comprehensive assessment of the Agreement, with the aim of improving its implementation and considering proposals by either side for additional steps, which will require mutual agreement for adoption.

XII. FINAL PROVISIONS

1. This Agreement is concluded in the [] languages.
2. This Agreement shall enter into force upon the completion of the internal process of each side.

FOR

Federal Republic of
Yugoslavia

Republic of
Serbia

Kosovo

ANNEX 1: HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Human Rights Agreements

- 1948 Convention on the Prevention and Punishment of the Crime of Genocide
- 1949 Geneva Conventions I-IV on the Protection of the Victims of War, and the 1977 Geneva Protocols I-II thereto
- 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols thereto
- 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto
- 1957 Convention on the Nationality of Married Women
- 1961 Convention on the Reduction of Statelessness
- 1965 International Convention on the Elimination of All Forms of Racial Discrimination
- 1966 International Covenant on Civil and Political Rights and the 1966 and 1989 Optional Protocols thereto
- 1966 Covenant on Economic, Social, and Cultural Rights
- 1979 Convention on the Elimination of All Forms of Discrimination Against Women
- 1984 Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
- 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- 1989 Convention on the Rights of the Child
- 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- 1992 European Charter for Regional or Minority Languages

- 1994 Framework Convention for the Protection of National Minorities

Other Annexes

The following additional annexes will be a part of the completed Agreement:

Annex 2: Police and Security Matters

Annex 3: Financing and Other Economic Issues

Annex 4: Conduct and Supervision of Elections

Annex 5: National Communities

[Annex 6: Communal Boundaries]

**FAX**U. S. State Department
S, Room 7246Date October 1, 1998Number of pages including cover sheet 16

To:

Greg Schulte

Phone

Fax Phone 456-9150

CC:

From:

James C. O'BrienPhone 202/647-7190Fax Phone 202/647-0753**REMARKS:**☐ Urgent☐ For your review☐ Reply ASAP☐ Please commentAnother Discussion draft.

CONFIDENCE-BUILDING MEASURES

The sides agree that:

1. They will end violence. Alleged violations shall be reported to international observers and will not be used to justify violence in response.
2. In recognition of changes in the security situation since [June 16, 1998], state security forces now will return to their permanent garrisons. International personnel will be invited to accompany security personnel on any patrols in Kosovo outside areas of permanent encampment.
3. Locally-controlled police will be established in Kosovo, starting immediately with selected communities but including the entire territory of Kosovo as soon as practicable. These police will be solely responsible for law enforcement in their communities except when they request assistance. Federal authorities will provide essential equipment for local police. International assistance is requested with regard to training, organization, and equipment.
4. Each side will encourage all persons displaced during the conflict to return to their homes as the security situation permits. There will be no impediments to the normal flow of goods into Kosovo. Federal and Republic authorities will provide building materials and assistance through international humanitarian organizations to persons returning to their homes in Kosovo.
5. In each community a local commission, representative of all national communities there, will assist international humanitarian agencies in the delivery and distribution of food, medicine, clothes, construction materials, the restoration of electricity and water supply, and in encouraging returns.
6. International personnel shall be allowed unfettered access, at any time, throughout Kosovo. It is expected that international personnel will be present at all times in selected communities.
7. Each side shall respect its obligation to cooperate in the investigation and prosecution of war crimes and other violations of international humanitarian law. In acknowledgement that allegations of atrocities cannot be resolved to the satisfaction of the other, each side will allow complete, unimpeded, and unfettered access to international experts - including forensics experts - authorized to investigate such allegations.
8. Republic and Federal authorities shall reexamine, for extraordinary mitigation of punishments, all sentences pronounced on members of national communities from Kosovo for acts motivated by political goals.
9. A joint commission will serve as central coordinating mechanism for monitoring the implementation of these measures. It will be comprised of Federal and Republic representatives, representatives of the national communities in Kosovo, and international representatives (including the KDOM, the Contact Group, and others as agreed). The sides shall cooperate completely with the commission and to provide it with safe, complete, and unimpeded access to all places, persons, and information (including documents and other records) upon its request.

INTRODUCTION

1. All citizens in Kosovo have equal rights and duties as set forth in this Agreement. In Kosovo, members of each national community have additional rights as set forth below.
2. Nothing in this Agreement shall be interpreted as authority for Federal and Republic organs to influence or intervene in the work of the organs of Kosovo. The areas of competence of the respective organs shall be defined in this Agreement.
3. The organs of Kosovo shall follow principles of full respect for human rights, democracy, and national communities.
4. Citizens in Kosovo shall enjoy, without limitation, human and democratic rights and shall be given the opportunity to be represented in all organs of authority.
5. Every person in Kosovo shall have the right to apply to international institutions, including the European Court of Human Rights, for the protection of their rights in accordance with the procedures of such institutions.
6. Each side will implement the Agreement in accordance with its procedures, including for the Republic of Serbia and the Federal Republic of Yugoslavia their respective legal systems, and international standards, including the Helsinki Final Act.

II. RIGHTS AND DUTIES OF CITIZENS IN KOSOVO

1. Kosovo shall retain its current boundaries.
2. Persons in Kosovo shall govern themselves democratically through legislative, executive, and judicial organs established in this Agreement. The rights and duties of citizens in Kosovo will include the right to democratic self-government and to participate in free and fair elections.
3. The basic unit of government will be the communes. All responsibilities not expressly assigned elsewhere by this Agreement will be the responsibility of the communes.
4. The Federal authorities will have responsibility in Kosovo for territorial integrity, maintaining a common market within the Federal Republic of Yugoslavia, monetary policy, [immigration], defense, foreign policy consistent with the Constitution of the Federal Republic of Yugoslavia, customs services, and other functions specified in the Agreement.
4. The organs of Kosvo shall not interfere in the additional rights described in Part 3 of this Agreement.

III. RIGHTS OF NATIONAL COMMUNITIES

1. Members of the national communities shall have additional rights determined by this Agreement in order to preserve and express their national, cultural, religious, and linguistic identities in accordance with international standards and the Helsinki Final Act.
2. The national communities shall be legally equal and shall not use their additional rights so as to endanger the rights of other national communities or the rights of citizens.
3. Each national community shall select through democratic means, in accordance with procedures it shall decide, a National Council to administer the affairs of the community in Kosovo. Each Council will establish its own executive organs and procedures.
4. The national communities shall be subject to decisions of the Assembly of Kosovo, provided that any decisions concerning national communities must be nondiscriminatory. The Assembly shall decide upon a procedure for resolving disputes between national communities.
5. The additional rights of the national communities are to:
 - (i) preserve and protect their national cultures, including by:
 - using their languages and alphabets.
 - inscribing local names of towns and villages, of squares and streets, and of other topographic names in the language and alphabet of the national community, consistent with decisions about style made by the communal organs.
 - providing information in the language and alphabet of the national community.
 - establishing educational, cultural and religious associations, for which relevant authorities will provide financial assistance.
 - enjoying unhindered contacts with their respective national communities outside the Federal Republic of Yugoslavia.
 - using and displaying national symbols;

- providing for education, in particular for schooling in their own language and alphabet and in national culture and history.
- protecting national practices on family law by, if the community decides, arranging rules in the field of heritage, family, and matrimonial relations; tutorship; and adoption.
- the preservation of sites of religious, historical, or cultural importance.
- implementing public health and social services.
- operating religious institutions in cooperation with religious authorities.

(ii) adopt procedures for dispute resolution, as provided in Article V(1)(b) of this Agreement;

(iii) be guaranteed at least one radio and TV frequency, which it shall administer subject to non-discriminatory, technical standards;

(iv) finance activities of the national communities by collecting charges a National Council decides to levy on members of its own community.

6. Members of national communities will also be guaranteed:

- the right to participate in regional and international non-governmental organizations in accordance with procedures of these organizations; and
- equal access to employment in public services.

IV. THE ORGANS OF KOSOVO

PART I: GENERAL

1. The organs of Kosovo are the Assembly, the Chairman, the Government, the Administrative Organs, and the Ombudsman.

The Assembly

2. The Assembly.

(a) (i) The Assembly shall comprise [] Members, of which [] Members shall be directly elected in accordance with Article VII(4). (ii) The remaining [] Members shall be allocated among the national communities with at least []% of the population, each of which shall elect Members democratically according to its own procedure.

(b) The Assembly shall be responsible for enacting all decisions of Kosovo, including those regulating relations in political, economic, social, and cultural areas consistent with this Agreement. Its areas of responsibility include:

- The adoption of the organic documents of Kosovo;
- The adoption of regulations on the organization and procedures of the organs of Kosovo;
- The adoption of budgets and annual accounts of the Organs of the Government;
- Cooperation with Federal and Republic authorities;
- Ensuring freedom of movement;
- Financing activities of the Organs of the Provisional Government;
- Coordination among communes or national communities when necessary, including the enactment of laws or decisions necessary and property for inter-communal issues; and
- Confirmation of the members of the Governing Board and judges of the courts.

(c) Decisions of the Assembly shall be taken by majority of those present and voting, except as provided in paragraph (d).

(d) When a majority of the Members of a national community covered by paragraph (a)(ii) assert that a proposed decision affects the vital interests of their national community, that decision shall require for approval a majority that includes the majority of the Members present and voting from the affected national community. If a majority of Members from the asserting community is not present and voting, the regular voting rule shall apply.

(e) A procedure for resolving disputes over the use of the procedure established in paragraph (d) will be agreed.

(f) A majority of Members present shall constitute a quorum.

(g) The Assembly will decide its own rules of procedure and select its officers. Each national community covered by paragraph (a)(ii) shall be represented in the leadership. The Presidency of the Assembly shall rotate each term of office among those national communities in alphabetical order but may not be from the same national community as the Chairman.

The Chairman

3. There shall be a Chairman, who shall be directly elected.

(a) The Chairman shall be responsible for:

- Chairing meetings of the Government.
- Representing all persons in Kosovo before any international, Federal, or Republic body, with the President of the Assembly when required by this Agreement.
- Meeting regularly with the National Councils and with other representatives of the national communities and other persons.
- Conducting foreign relations consistent with the Constitution of the Federal Republic of Yugoslavia.
- Signing agreements on behalf of Kosovo after they are approved by the Assembly.
- Serving on the Joint Implementation Commission established by this Agreement.

- Meeting regularly with the President of the Federal Republic of Yugoslavia, the President of Montenegro, and the President of Serbia to discuss issues of mutual concern.

Government

4. Executive power shall be exercised by the Government.

(a) The Government shall comprise [] Members, including at least one person from each national community.

(b) The Government shall be responsible for implementing and enforcing decisions of the Assembly and, when devolved to their competences, of other governmental organs.

(c) Decisions of the Government shall require a majority of Members present and voting. The Government shall otherwise decide its own rules of procedure.

Ombudsman

6. (a) There shall be an Ombudsman of Kosovo, who shall monitor the implementation of this Agreement, particularly with regard to the rights of the national communities.

(b) The selection, term, and termination of the Ombudsman shall be set forth in the Agreement.

(c) The Ombudsman shall have complete, unimpeded, and immediate access to any person, place, or information upon his or her request. He or she shall have the right to intervene before any Federal or other domestic authority upon his or her request.

PART II: THE COMMUNES

1. Kosovo shall have [] communes, with boundaries determined by .

2. Communes may by mutual agreement form self-administering regions comprising multiple communes.

3. Each commune shall have a Council and such executive bodies as each Council may establish.

Each national community with at least []% of the population of the commune shall be represented on the Council in proportion to its share of the regional population or by one member, whichever is greater.

4. The communes shall have exclusive responsibility for carrying out typical functions of local and regional government, including:

- Providing law enforcement, including criminal investigations, prosecution, and punishment.
- Regulating and, when appropriate, providing child care.
- Establishing and regulating the work of medical institutions and hospitals. Special arrangements will be made for institutions owned by government entities.
- Protecting the environment.
- Regulating commerce and privately owned stores.
- Regulating hunting and fishing.
- Planning and carrying out public works of communal or Kosovo-wide territorial importance, including roads and water supplies.
- Regulating land use, town planning, building regulations, and housing construction.
- Designing and implementing programs of economic, scientific, technological, demographic, regional, and social development, and programs for the development of agriculture and of rural areas.
- Developing programs for tourism, the hotel industry, catering, and sport.
- Organizing fairs and local markets.
- Organizing public services of communal importance, including fire, emergency response, and police.
- Financing the work of communal organs, including raising revenues, taxes, and preparing budgets.

4. Each commune shall conduct its business in public and shall maintain publicly available records of its deliberations and decisions.

Part 3. Representation of Kosovo in Federal and Republic Bodies.

(a) The participation of Kosovo in Federal institutions shall be discussed, in particular to obtain appropriate representation in Federal organs responsible for developing and implementing defense

and economic policies and to take into account developments in Yugoslavia since 1991.

(b) The following is without prejudice to the rights of persons in Kosovo to decide whether to accept the offer and to the review described in section VIII(3):

- Kosovo shall be offered at least [ten] deputies in the House of Citizens of the Federal Assembly and [twenty] deputies in the National Assembly of the Republic of Serbia.
- Each national community in Kosovo shall be offered at least one place in the Federal Government and in the Government of the Republic of Serbia.
- Each national community in Kosovo shall be offered at least one judge on the Federal Court of the Federal Republic and three judges on the Supreme Court of Serbia.

(c) In order to monitor the protection of additional rights of the national communities, a Council for the protection of members of the national communities shall be established.

V

RESOLVING CONFLICTS AND MAINTAINING PUBLIC ORDER

(1) Dispute Resolution.

(a) Courts in Kosovo.

The Assembly shall establish common and supreme courts for Kosovo, with jurisdiction over constitutional, civil, and criminal matters. Appeals from these courts?

(b) National Communities.

Each community may establish procedures for resolving conflicts concerning inheritance, family law, matrimonial relations, tutorship, adoption civil lawsuits as decided by the Assembly of Kosovo, and criminal cases for which imprisonment of up to one year is prescribed in the currently applicable penal code. These procedures must ensure that practices are consistent with internationally recognized human rights. They shall have jurisdiction only when all parties to a dispute agree.

Decisions of the national community dispute resolution mechanism shall be honored by other courts in Kosovo and the Federal Republic of Yugoslavia in accordance with applicable rules.

(2) Police.

(a) Police shall be sworn to uphold the law impartially, fairly, and with equal treatment for all persons.

(b) All police operating in Kosovo must be trained to internationally-accepted standards for police operations, in particular with regard to human rights.

PARAGRAPHS (c) AND (d) TO BE DEVELOPED FURTHER

(c) Each commune shall establish local police, which shall have membership representative of the commune. Police (such as customs police) from other governmental levels shall recruit members of national communities so that the composition of such

police forces in Kosovo will be representative of the population there.

(d) The local police shall be exclusively responsible for maintaining public order and peace. Federal and Republic police shall not carry out this responsibility. Federal and Republic authorities, in accordance with their respective responsibilities, shall retain responsibility for external security, border police, and the investigation of international and extra-Kosovo crime.

(e) Each commune shall establish a commission to review and make recommendations on all matters concerning the police, including in particular complaints about violations of human rights. Every national community in the commune will have the right to participate on the commission. These commissions shall have the complete cooperation of both sides and unimpeded access to any person, place, document, and information it requests.

VI. FINANCING

1. The bodies established in Sections II - IV shall have the right to keep all revenues from their own taxes or other charges. They shall also have a part of revenue otherwise derived in Kosovo (including duties or fees). The organs of Kosovo shall participate in the collection of customs and other duties within Kosovo according to procedures to be agreed.
2. In recognition of the fact that this Agreement confers new responsibilities upon bodies in Kosovo, Republic and the Federal authorities shall examine how to provide resources necessary for the conduct of its responsibilities. These resources shall include funds (including tax remission), equipment, and training.
3. Federal and Republic authorities shall also facilitate, to the extent of their respective authorities, the delivery of resources from international sources to Kosovo.

VII IMPLEMENTATION PERIOD

1. This Agreement shall be implemented as quickly as possible. The signatories of this Agreement take the obligation to allow, insofar as possible, its adequate implementation even before the adoption and undertaking of all acts and measures fixed in the Agreement.
2. The sides will start without delay on any and all legal changes necessary for the full implementation of this Agreement. They acknowledge that complete implementation will require the adoption of necessary state regulations and other general acts, of the organic document of Kosovo, political acts and measures, and the elections of establishment of institutions and bodies established by this Agreement.
3. Each national community in Kosovo is authorized to start exercising the additional rights determined by this Agreement, to the extent possible, immediately upon signature.
4. Within [] months, there will be elections for all bodies established by this Agreement. The Government of the FRY hereby invites the Organization for Security and Cooperation in Europe (OSCE) to conduct those elections.
5. Under international supervision, an objective and free census of the population in Kosovo shall be carried out when the international supervisor determines that conditions allow an accurate census.
6. All relevant governmental institutions shall provide the organs of Kosovo with all necessary records about the places of residence, citizenship, voters' lists, and other data.
7. The signatories of this Agreement shall provide active support, cooperation, and participation for the successful implementation of the Agreement.
8. Laws and institutions currently in place in Kosovo shall remain until replaced by a decision of a competent body established by this Agreement.

VIII AMENDMENTS

1. Amendments to the Agreement shall be adopted by signature of the parties.
2. Each signatory may propose amendments at any time and will consider and consult with the other with regard to proposed amendments.
3. In three years, the sides will undertake a comprehensive assessment of the Agreement, with the aim of improving its implementation and considering proposals by either side for additional steps, which will require mutual agreement for adoption.

IX FINAL PROVISIONS

1. This Agreement is concluded in the languages.
2. This Agreement shall enter into force upon the completion of the internal process of each side.

FOR

Federal Republic of
Yugoslavia

Republic of
Serbia

Kosovo

- signed to S/M

NATIONAL
DRAFT

shared 2 Sept.
with Albanians only

INTRODUCTION

1. All citizens in Kosovo have rights and duties as set forth in this Agreement. In Kosovo, members of each national community have additional rights as set forth below.
2. Federal and Republic organs shall not influence or intervene in the work of the organs of Kosovo acting within their areas of competence. The organs shall not intervene in the work of federal and republic organs acting within their areas of competence.
3. The organs of Kosovo shall follow principles of full respect for human rights, democracy and the protection of the equality of citizens and national communities.
4. The citizens and national communities in Kosovo shall enjoy, without limitation, human and democratic rights and shall be given the choice to be represented in all organs of authority.
5. Every person and national community in Kosovo shall have the right to apply to international institutions, including the European Court of Human Rights, for the protection of their rights in accordance with the procedures of such institutions.
6. The Agreement will be implemented by each side in accordance with applicable procedures.

II. RIGHTS AND DUTIES OF CITIZENS IN THE TERRITORY

1. The rights and duties of citizens in the territory are to be implemented in the legislative, executive, and judicial organs established in this Agreement. Those rights and duties are the right to democratic self-government, including:

- The adoption of the organic documents of Kosovo;
- The adoption of regulations on the organization and procedures of the organs of Kosovo;
- The adoption of budgets and annual accounts;
- Cooperation with Federal and Republic authorities
- Participating in and conducting, consistent with this Agreement, free and fair elections;
- Ensuring freedom of movement;
- Providing law enforcement, including criminal investigations, prosecution, and punishment;
- Regulating and, when appropriate, providing child care;
- Establishing and regulating the work of medical institutions and hospitals. Special arrangements will be made for state-owned institutions.
- Protection of the environment;
- Regulating commerce and privately owned stores;
- Regulating hunting and fishing;
- Planning and carrying out public works of communal or Kosovo-wide territorial importance, including roads and water supplies;
- Regulating Land use, town planning, building regulations, and housing construction;
- Designing and implementing programs of economic, scientific, technological, demographic, regional, and social development, programs for the development of agriculture and of rural areas;
- Developing programs for tourism, the hotel industry, catering, and sport;
- Organizing fairs and local markets;
- Organizing public services of communal and Kosovo-wide importance;
- Financing the work of communal and Kosovo organs;
- Conducting foreign relations consistent with the Constitution of the Federal Republic of Yugoslavia.

2. This Agreement shall determine the allocation of these responsibilities among the organs of Kosovo.

3. The organs of Kosvo shall not interfere in the additional rights described in Part 3 of this Agreement.

III. RIGHTS OF NATIONAL COMMUNITIES

1. Members of the national communities shall have the additional rights determined by this Agreement. The additional rights preserve and express the national, cultural, religious, and other aspects of the national communities in accordance with international standards and the Helsinki Final Act.

2. The national communities shall be legally equal and shall not use their additional rights so as to endanger the additional rights of other national communities or the rights of citizens of the Republic of Serbia or of the Federal Republic of Yugoslavia.

3. Each national community shall elect, in accordance with procedures it shall decide, a National Council to administer the affairs of the community in the territory. Each Council will establish its own executive organs and procedures.

4. The additional rights of the national communities are to:

(i) preserve and protect their national cultures, including by:

- using their languages and alphabets;
- inscribing local names of towns and villages, of squares and streets, and of other topographic names in the language and alphabet of the national community, consistent with decisions about style made by the communal organs;
- providing information in the language and alphabet of the national community;
- establishing educational, cultural and religious associations, for which the state shall provide financial assistance;
- enjoying unhindered contacts with their respective national communities outside the Federal Republic of Yugoslavia;
- using and displaying national symbols;
- providing for education, in particular for schooling in their own language and alphabet and in national culture and history. National communities are encouraged to coordinate curricula with Republic authorities concerning appropriate subjects (for example, to ensure that students

meet standards in subjects such as mathematics or science);

- protecting national practices on family law by, if the community decides, arranging rules in the field of heritage, family, and matrimonial relations; tutorship; and adoption. Each community may establish procedures for resolving conflicts in these fields subject to the agreement of the parties to each dispute. These rules must ensure that practices are consistent with internationally recognized human rights.
- the preservation of sites of religious, historical, or cultural importance;
- implementing public health and social services;
- operating religious institutions in cooperation with religious authorities.

(ii) to adopt procedures and laws for courts of the national communities, as described in this Agreement, and means to enforce decisions of those courts;

(iii) be guaranteed at least one radio and TV frequency, which it shall administer subject to non-discriminatory, technical standards;

(iv) finance activities of the national communities by collecting charges a National Council decides to levy on members of its own community.

5. Members of national communities will also be guaranteed:

- the right to participate in regional and international non-governmental organizations in accordance with procedures of these organizations; and
- equal access to employment in public services.

Aparani

All
Sinh

Montecarlo

Box 81

Turk 121

Roma 111

What's a
national
community?

Egyptians are
Roman from Egypt,
not India

IV. THE ORGANS OF KOSOVO

PART I: GENERAL

1. The organs of Kosovo are the Assembly, the Representative, the Governing Board, the Administrative Organs, and the Ombudsman.

The Assembly

2. The Assembly.

(a) The Assembly shall comprise [] Delegates. [] Delegates shall be directly elected under international supervision. The remaining [] Delegates shall be allocated equally among the national communities, each of which shall elect Delegates according to its own procedure.

(b) Each national community that is more than []% of the population shall be guaranteed at least [] Delegates. If fewer than that number of Delegates of a national community are elected to the Assembly, the difference shall be selected by the Council of the respective national community.

(c) The Assembly shall be responsible for enacting all laws of the territory. Its areas of responsibility are:

- Conduct of relations with foreign entities, in consultation with the Representative;
- Financing activities of the Organs of the Provisional Government;
- Coordination of policy with Federal and Republic authorities;
- Coordination among communes or national communities when necessary; and
- Confirmation of the members of the Governing Board and judges of the courts.

(d) Decisions of the Assembly shall be taken by majority of those present and voting, except as provided in paragraph (e).

(e) When a majority of the Delegates of a national community assert that a proposed decision affects the vital interests of their national community, that decision shall require for approval a majority that includes the majority of the Delegates present

and voting from the affected national community. If a majority of Delegates from the asserting community is not present and voting, the regular voting rule shall apply.

(f) A procedure for resolving disputes over the use of the procedure established in paragraph (e) will be agreed.

(g) A majority of Delegates present shall constitute a quorum.

(h) The Assembly will decide its own rules of procedure and select its officers. Each national community represented in the Assembly shall be represented in the leadership. The Presidency of the Assembly shall rotate each term of office among those national communities in alphabetical order but may not be from the same national community as the territorial Representative.

(i) Each commune shall have a local assembly, which shall follow the model of the territorial Assembly.

(j) The President of the Assembly shall be responsible for representing the territory before Federal and Republic organs.

The Representative

3. There shall be a Representative, who shall be directly elected.

(a) The Representative shall be responsible for:

- Representing all persons in the territory of Kosovo before any international, Federal, or Republic body, with the President of the Assembly when required by this Agreement;
- Meeting regularly with the National Councils and with other representatives of the national communities and other persons;
- Chairing the Governing Board;
- Signing agreements on behalf of Kosovo after they are approved by the Assembly; and
- Serving on the Joint Implementation Commission established by this Agreement;
- Meeting regularly with the President of the Federal Republic of Yugoslavia, the President of

Montenegro, and the President of Serbia to discuss issues of mutual concern.

Governing Board

4. Executive power shall be exercised by the Governing Board.

(a) The Governing Board shall comprise [] Members. Each national community council shall select [] Member(s).

(b) The Governing Board shall be responsible for implementing and enforcing decisions of the Assembly and of Federal and Republic organs.

(c) Decisions of the Governing Board shall require a majority of Members present and voting. The Board shall decide its own rules of procedure. The President of the Assembly and the President of the Governing Board may not be from the same national community.

Administrative Agencies

5. Administrative agencies are responsible for implementing decisions of Kosovo and, where appropriate, those of Federal and Republic organs.

Ombudsman

6. There shall be an Ombudsman of Kosovo, who shall monitor the implementation of this Agreement, particularly with regard to the rights of the national communities.

(a) The Ombudsman shall be nominated by the Federal Government from a list of Yugoslav citizens submitted by the [President of the European Court of Human Rights] after consultation with the national communities in the territory. The first term will be four years. Thereafter, the Ombudsman will be nominated by the Federal Government for a two year term.

(b) The Ombudsman shall have complete, unimpeded, and immediate access to any person, place, or information upon his or her request. He or she shall have the right to intervene before any Federal or Republic authority upon his or her request.

→ int'l
person
→ functions
monitoring
enforcement

PART II: THE COMMUNES

1. The basic unit of government will be the communes. All responsibilities not expressly assigned elsewhere will be the responsibility of the communes. Communes may by mutual agreement form self-administering regions comprising multiple communes.

2. The government shall comprise a Council and such executive bodies as each Council will establish. Each national community is to be represented on the Council in proportion to its share of the regional population or by one member, whichever is greater.

3. The communes shall have exclusive ~~responsibility~~ ^{competence} for carrying out typical functions of local and regional government, including:

- Child care.
- Medical institutions and hospitals, other than those that are state-owned.
- Educational institutions, other than those that are state-owned.
- Environmental protection.
- Trade and independent shops, consistent with Republic and federal law.
- Hunting and fishing.
- Public works of local or regional importance, including roads and water supplies.
- Land use, town planning, building codes, and housing construction.
- Programs for economic, scientific, technological, demographic, regional, and social development, for the development of agriculture and rural areas, in accordance with applicable regulations.
- Tourism, the hotel industry, catering, and sport.
- Fairs and local markets.
- Public services, including fire, emergency response, and (as provided below) police.
- Finances for the commune, including raising revenues, taxes, and preparing budgets.

4. Each commune shall conduct its business in public and shall maintain publicly available records of its deliberations and decisions.

[Part 3. Representation of Kosovo in Federal and Republic Bodies.

(a) Kosovo shall be appropriately represented in Federal organs responsible for developing and implementing defense and economic policies.

(b) Kosovo shall be guaranteed at least [ten] deputies in the House of Citizens of the Federal Assembly and [twenty] deputies in the National Assembly of the Republic of Serbia.

(c) Each national community in Kosovo shall be guaranteed at least one place in the Federal Government and in the Government of the Republic of Serbia.

(d) Each national community in Kosovo shall be guaranteed at least one judge on the Constitutional Court of the Federal Republic and three judges on the Supreme Court of Serbia.

(e) In order to monitor the protection of special rights of the national communities, a Council of the Republic for the protection of members of the national communities shall be established in the Republic of Serbia. The Council of the Republic shall be chaired by the President of the Republic.]

RESOLVING CONFLICTS AND MAINTAINING PUBLIC ORDER

(1) Dispute Resolution.

(a) National Communities.

Each national community may establish its own dispute resolution system for conflicts concerning inheritance, family law, civil lawsuits as decided by the Provincial Assembly, and for criminal cases as described below. These mechanisms shall have jurisdiction only when all parties to a dispute agree.

Judges shall be nominated by the national community councils and confirmed by the Parliamentary Assembly. They must have qualifications required of judges of the corresponding state courts.

Decisions of the national community dispute resolution mechanism shall be honored by state courts.

(b) Courts in the Territory.

The Assembly shall establish common and appellate courts for the territory of Kosovo, with jurisdiction over constitutional, civil, and criminal matters not within the jurisdiction of the national community mechanisms established pursuant to paragraph (a).

(2) Police.

(a) Police shall be sworn to uphold the law impartially, fairly, and with equal treatment for all persons.

(b) All police operating in Kosovo must be trained to internationally-accepted standards for police operations, in particular, with regard to human rights.

(c) Each commune shall establish local police, which shall have membership representative of the commune. The state and border police shall recruit members of national communities so that its

composition in Kosovo will be representative of the population.

(d) The local police shall be exclusively responsible for maintaining public order and peace; Federal and Republic police shall not carry out this responsibility. Federal and Republic authorities, in accordance with their respective responsibilities, shall retain responsibility for external security, border police, and the investigation of international and extra-Kosovo crime.

(e) Each commune shall establish a commission to review and make recommendations on all matters concerning the police, including in particular complaints about violations of human rights. Every national community in the commune will have the right to participate on the commission. These commissions shall have the complete cooperation of both sides and unimpeded access to any person, place, document, and information it requests.

VI. FINANCING

1. The bodies established in Sections II - IV shall have revenues from their own taxes and a part of the state tax revenue, so that they can carry out the rights and perform the duties established in this Agreement.

2. In recognition of the fact that this Agreement confers new responsibilities upon bodies in Kosovo, Republic and the Federal authorities shall examine how to provide resources necessary for the conduct of its responsibilities. These resources shall include funds (including tax remission), equipment, and training.

3. Federal and Republic authorities shall also facilitate, to the extent of their respective authorities, the delivery of resources from international sources to Kosovo.

VII. CONFIDENCE-BUILDING MEASURES

1. The sides will end violence. State security forces will reduce their presence outside locations of their permanent encampment as the security situation allows, with a view to maintaining a normal presence required for external security requirements as soon as possible. Alleged violations will be reported to international monitors and will not be used to justify further violence.

2. Each side will encourage all persons displaced during the conflict to return to their homes. Federal and Republic authorities will continue to provide building materials and assistance. In cooperation with international assistance organizations, in each community a local commission, representative of all communities there, will assist in the delivery and distribution of food, medicine, clothes, construction materials, the restoration of electricity and water supply, and in encouraging returns.

3. Each side will cooperate with and provide unimpeded access to humanitarian and international organizations; facilitate the delivery of humanitarian assistance; and expedite the return of displaced persons and refugees to their homes, including by facilitating travel of those persons and international personnel; by rehabilitating or providing shelter; and agreeing to security arrangements that create confidence among the displaced persons and refugees. It is expected that international personnel will be present at all times in selected communities.

4. Each side will respect its obligation to cooperate in the investigation and prosecution of war crimes and other violations of international humanitarian law.

5. A joint commission will serve as central coordinating mechanism for monitoring the implementation of these measures, including the operations in Kosovo of civil and special police, of judicial and penal institutions, and forces with responsibility for external security. The commission will be comprised of Federal and Republic

representatives, representatives of the national communities in Kosovo, and international representatives (including the KDOM, the Contact Group, and others as agreed). The sides shall cooperate completely with the commission and to provide it with safe, complete, and unimpeded access to all places, persons, and information (including documents and other records) upon its request.

6. An international presence in Kosovo will be responsible for monitoring and observing the implementation of this Agreement and for such other responsibilities as described in this Agreement. The sides agree to provide complete cooperation as requested by the international presence and to take all necessary steps to ensure the safety of international personnel.

VIII IMPLEMENTATION PERIOD

1. This Agreement shall be implemented as quickly as possible.

2. The sides acknowledge that complete implementation will require the adoption of necessary state regulations and other general acts, of the organic document of Kosovo, political acts and measures, and the elections of establishment of institutions and bodies established by this Agreement. Work will start without delay to complete all legal changes necessary for the full implementation of this Agreement.

3. Each national community in Kosovo is authorized to start exercising the additional rights determined by this Agreement, to the extent possible, immediately upon signature.

4. Within [] months, there will be transitional elections under international auspices for the elective bodies established by this Agreement.

5. As soon as possible after signature of this Agreement, competent organs shall organize and carry out, under international supervision, an objective and free census of the population in the territory.

6. To facilitate the transition, the organs of the state shall provide the organs of Kosovo with updated all necessary records about the places of residence, citizenship, voters' lists, and other data indispensable for the implementation of this Agreement.

7. The signatories of this Agreement, members of the national communities shall provide active support, cooperation, and participation for the successful implementation of the Agreement.

8. The signatories of this Agreement take the obligation to allow, during the transition period, and in accordance with the nature of the rights and obligations under this Agreement, its adequate implementation even before the adoption and undertaking of all acts and measures fixed in the Agreement insofar as possible.

9. Laws and institutions currently in place in Kosovo shall remain until replaced by a decision of a competent body established by this Agreement.

IX AMENDMENTS

1. Amendments to the Agreement shall be adopted by signature of the parties.
2. Each signatory may suggest amendments and agrees to consider and consult with the other with regard to suggested amendments.
3. In three years, the sides will undertake a comprehensive assessment of the Agreement, with the aim of improving its implementation and considering proposals by either side for additional steps, which will require mutual agreement for adoption.

X FINAL PROVISIONS

1. This Agreement is concluded in the languages.
2. This Agreement shall ^{enter}~~come~~ into force upon the completion of the internal process of each side.

EIF?

FOR

Federal Republic of
Yugoslavia

Republic of
Serbia

Kosovo

WITNESS

AUTONOMY TALKS

Ambassador Chris Hill and others have shuttled between Serb and Kosovar authorities to lay the groundwork for a political settlement on enhanced self-government for Kosovo within the F.R. of Yugoslavia. The Contact Group endorsed Hill's settlement proposal in September. Both sides have given Hill's team comments on the proposal and have expressed interest in pursuing the dialogue. Following meetings with Ambassador Holbrooke, the Serb side announced some unilateral concessions on Kosovo, establishing an ambitious timetable for concluding negotiations on the core elements of a political settlement by November 2.

What is Being Negotiated?

The draft settlement proposal would:

- Devolve significantly enhanced self-government to Kosovo as a territorial unit (rather than transfer powers to an ethnic Albanian community, as the Serbs prefer);
- Provide for an elected Kosovo assembly with taxation authority, an "executive," and a local police force;
- Lead to early elections for key Kosovo political bodies, including the executive;
- Generally devolve all powers except foreign affairs, defense, customs, and other traditional central government functions, letting Kosovars control institutions most directly affecting their daily lives, e.g. police, schools, health care;
- Let ethnic groups control items essential to their identities;
- Make the agreement "interim," deferring the difficult issue of Kosovo's final status -- within Serbia, within the FRY, or independence;

-- Both sides have announced support for this approach.

Is This at Least as Good as 1974?

The draft settlement is an interim solution and does not -- as the 1974 Constitution did -- fix Kosovo's status within the FRY. The settlement proposal does not slam the door on eventual independence. It does:

DECLASSIFIED E.O. 13526
Department of State Guidelines, November 6, 2015

By RL NARA, Date 4/25/2024

CONFIDENTIAL

2008-0544-F.3

- Put key institutions under the democratic control of the people of Kosovo -- pre-1989, all institutions were controlled by the League of Communists of Yugoslavia;
- Allow for the establishment of all Kosovo institutions extant under the '74 agreement -- this can be made more precise as the Kosovo negotiators will spell out what they want;
- Concentrate greater authority and responsibility at the local level than was the case under the 1974 Constitution (i.e. police);
- Mean something in the current political context -- many of the institutions in which Kosovo enjoyed special status under the 1974 constitution no longer exist (i.e. the Yugoslav collective presidency);
- Leave open the possibility of a settlement that puts Kosovo on par with Montenegro and Serbia in the FRY.

What are the Key Outstanding Issues?

- Nature and scope of international involvement in the post-settlement period.
- Albanian insistence on a referendum at the end of the interim period to decide Kosovo's fate.
- Lack of specific Albanian proposals for participation in Federal institutions.
- For Serbs, lack of province-wide police or judiciary.

Process

- Albanian ability to reach agreement on or about November 2 is questionable. An alternative may be to delay the conclusion of talks until a more broadly based Albanian team can be formed.
- Expert groups on police and constitutional issues (including human rights) are meeting with the parties, with the aim of meeting November 2 timetable.
- We do not anticipate face-to-face negotiations on an off-site (e.g., Dayton) approach. The parties need to remain close to their constituencies.

~~CONFIDENTIAL~~

CLASSIFICATION



FROM: DCI INTERAGENCY BALKAN TASK FORCE

SUBJECT: BALICENS ISSUEPAGES 2

TRANSMIT TO

AGENCY	NAME	OFFICE	ROOM#	PHONE#
NSC	Nick Dowling			(202) 757-2679

REMARKS:

CLASSIFICATION

UNCLASSIFIED

Issue	Hill Proposal	Kosovar Counter-proposal
Equality of citizens and national communities	Yes	Yes
High degree of local self-government	Yes	Not addressed
Detailed plan for government structure	Yes	Not addressed
Local control of police	Yes	Yes
Participation in FRY government	Yes	Yes
Participation in Serbian government	Yes	No
Federal government responsible for borders	Yes	Yes
Federal government responsible for defense	Not addressed	Yes
Federal government responsible for money	Not addressed	No
Federal government responsible for customs	Not addressed	Yes
Federal government responsible for foreign policy	No	Yes
Elections	Yes	Yes
Census	Yes	Not addressed
Immediate cease-fire and withdrawal of security forces	Yes	Yes
Limit prosecutions related to recent conflict	Yes	Yes
Allow access for humanitarian assistance	Yes	Yes
Allow return of displaced persons	Yes	Yes
Release political prisoners	Not addressed	Yes
Agreement a temporary status	Not addressed	Yes
Three year time frame of agreement	Yes	Yes
Substantial international involvement (monitors, aid, advice)	Yes	Yes
Lift economic blockade of Kosovo	Not addressed	Not addressed

UNCLASSIFIED