

# **DRAFT KOSOVO INTERIM AGREEMENT**

(January 27, 1999)

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## **I. INTRODUCTION**

1. All citizens in Kosovo have equal rights and duties as set forth in this Agreement. National communities and their members shall have additional rights as set forth below. 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.
2. All authorities in Kosovo shall fully respect principles of human rights, democracy, and the equality of citizens and national communities.
3. Citizens in Kosovo shall have the right to democratic self-government through legislative, executive, judicial, and other institutions established in accordance with this Agreement. They shall have the opportunity to be represented in all institutions in Kosovo. The right of democratic self-government shall include the right to participate in free and fair elections.
4. Every person in Kosovo shall have the right to apply to international institutions for the protection of their rights in accordance with the procedures of such institutions.
5. The Parties accept that their powers and authorities in Kosovo are as specified by this Agreement, which shall prevail over any other legal provisions and shall be directly applicable. In implementing this Agreement in accordance with their procedures and international standards, the parties shall harmonize their governing practices and documents. All parties commit to implement this Agreement fully.
6. The Parties invite the OSCE to carry out the functions set forth in this Agreement. They agree to cooperate fully with all international organizations working in Kosovo on the implementation of this Agreement. The Kosovo Verification mission shall have the authority to call upon international organizations for additional assistance as necessary.

## **II. GOVERNANCE IN KOSOVO**

### **PART I: GENERAL**

1. The basic territorial unit of local government in Kosovo will be the communes. All responsibilities not expressly assigned elsewhere by this Agreement will be the responsibility of the communes.
2. The authorities of Kosovo shall have responsibility for all areas except the following, which shall be within the competence of the Federal Republic of Yugoslavia save as specified in paragraph three:
  - (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 of Yugoslavia
  - (c) monetary policy
  - (d) defense
  - (e) foreign policy
  - (f) customs services, and
  - (g) federal taxation.

Citizens in Kosovo shall continue to participate in areas reserved for the Federal Republic of Yugoslavia through their representation in Federal institutions.

3. Kosovo shall retain the following powers in the areas otherwise reserved for the Federal Republic of Yugoslavia:

- (a) No changes to the borders of Kosovo shall be made without the consent of the Kosovo Assembly and President;
- (b) Deployment and use of police and public security forces in Kosovo shall be governed by Annex 2 of this Agreement;
- (c) Citizens in Kosovo shall not be conscripted for Federal military service without the consent of the President of Kosovo;
- (d) Kosovo officers and institutions shall have authority to conduct foreign relations within their areas of responsibility equivalent to the power provided to Republics under Article 7 of the Constitution of the Federal Republic of Yugoslavia;
- (e) Martial law shall not be declared in Kosovo without the consent of the President of Kosovo;
- (f) Federal measures having a differential, disproportionate, or discriminatory impact on Kosovo shall not take effect in Kosovo without the consent of the Kosovo President.

4. There shall be no interference with the right of citizens and national communities in Kosovo to call upon institutions of the Republic of Serbia for the following purposes on a purely voluntary basis:

- (a) assistance in designing school curricula and standards;
- (b) participation in social benefits programs, such as care for war veterans, pensioners, and disabled persons; and
- (c) other voluntarily received services, provided that these services are not be related to police and security matters which shall be governed by Annex 2, and that any Republic personnel serving in Kosovo pursuant to this paragraph shall be unarmed social service providers acting at the invitation of a national community in Kosovo; the Chair of the Joint Commission shall have the authority to limit the exercise of this right to ensure the protection of all national communities.

5. Kosovo, Federal, and Republic authorities shall not interfere with the exercise of the additional rights described in Article IV of this Agreement.

6. All candidates for appointed, elective, or other public office in Kosovo, and all office holders in Kosovo, shall meet the following criteria:

- a) No person who is serving a sentence imposed by the International Criminal Tribunal for the Former Yugoslavia, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may stand as a candidate or hold any office; and
- b) All candidates and office holders shall renounce violence as a mechanism for achieving political goals; past political or resistance activities shall not be a bar to holding office in Kosovo.

## PART II: ASSEMBLY, PRESIDENT, GOVERNMENT, AND ADMINISTRATIVE BODIES

### The Assembly

1. There shall be an Assembly, which shall be comprised of one hundred Members.

- (a) Sixty Members shall be directly elected.
- (b) The remaining forty Members shall be elected by the members of qualifying national communities. The seats shall be divided equally among the national communities meeting a threshold determined as follows:

- (i) After the completion of the census specified in Article IX.5, those national communities representing at least five percent of the population of Kosovo as determined by the census shall be eligible for seats allocated under this paragraph.
  - (ii) Prior to the completion of the census, the national communities eligible for seats in the Assembly under this paragraph shall be decided by the Head of the Kosovo Verification Mission based on his estimation of which national communities meet the five percent population threshold. His decision shall take into account previous census data and other information.
  - (iii) The Serbian and Albanian national communities shall be presumed to meet the necessary population threshold.
- (c) Elections for all Members, whether under paragraph 1(a) or 1(b), shall be conducted democratically, consistent with the provisions of Article IX.4 and Annex 3.

2. The Assembly shall be responsible for adopting the Constitution of Kosovo and enacting laws of Kosovo, including those regulating relations in political, economic, social, and cultural areas. The Constitution and laws of the Kosovo Assembly shall not be subject to change or modification by authorities of the Republics or the Federation.

(a) The Assembly's areas of responsibility shall include:

- Financing activities of Kosovo institutions, including by levying taxes and duties on sources within 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;
- The adoption of regulations concerning the organization, procedures, and functioning of the Administrative Bodies of Kosovo;
- Approving the Government proposed by the President of Kosovo;
- Approving candidates put forward by the Kosovo President for Kosovo judicial offices;
- Adoption of laws ensuring free movement of goods, services, and persons in Kosovo consistent with the responsibilities of other authorities;
- Conducting relations with foreign entities and approving agreements within its areas of responsibility, consistent with the authorities of Kosovo institutions under this Agreement;
- Cooperating with the Federal Assembly, and with the Assemblies of the Republics;
- Establishing, in accordance with this Agreement, the main rules of local self-government, including in particular rules on elections consistent with the rules and regulations of the Central Election Commission, finance, the status of elected local officials, and on local government employees;
- Coordination among communes or national communities when necessary, including the enactment of laws concerning inter-communal issues;
- Protection of the environment where inter-communal issues are involved; and
- Designing and implementing programs of economic, scientific, technological, demographic, regional, and social development, as well as programs for the development of agriculture and of rural areas.

(b) The Assembly shall also have authority to enact laws in areas within the responsibility of the Communes if the matter cannot be effectively regulated by the Communes or if regulation by individual Communes might prejudice the rights of other Communes or if uniform legislation is necessary to ensure throughout Kosovo the equality of rights granted by this Agreement to citizens in Kosovo. In the absence of a law enacted by the Assembly validly taken within this authority that preempts communal action, the Communes shall retain their authority.

3. Laws shall be enacted by majority of those present and voting, except as provided in paragraph 4.

4. If a majority of the Members of a national community present and voting elected pursuant to paragraph 1(b) make a motion that a law adversely affects the vital interests of their national community, that law shall

remain in force subject to completion of the dispute settlement procedure in paragraph 5. Vital interest motions shall be made within five days of a law's enactment.

5. The following procedure shall be used in the event of a motion asserting that the vital interest of a national community has been adversely affected:

(a) The national community or communities asserting that its vital interest has been adversely affected will give reasons explaining its concerns to the President of Kosovo. Members of the Assembly supporting the law will be given an opportunity to respond. The President of Kosovo shall mediate the dispute and attempt to reach a settlement agreeable to all affected national communities.

(b) If mediation does not produce a mutually agreeable result within seven days, the matter shall be given to the Constitutional Court. The Court shall determine whether as a matter of law the vital interests of the national community or communities asserting the privilege set forth in paragraph 4 are adversely affected by the law. The Court shall hear argument and rule within fifteen days. Its judgment shall be final.

(c) A law determined by the President of Kosovo or, if applicable, the Constitutional Court to adversely affect the vital interests of a national community shall be void. The law shall stay in effect pending the completion of any appeal to the Constitutional Court.

6. 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 all civil or criminal proceedings on the basis of opinions expressed or other acts performed in their capacity as Members of the Assembly.

7. The Assembly shall elect from among its Members a President, two Vice-Presidents, and other leaders in accordance with the procedures of the Assembly.

8. Each national community meeting the threshold specified in paragraph 1(b) shall be represented in the leadership. The President of the Assembly shall not be from the same National Community as the President of Kosovo.

9. 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.

President of Kosovo

10. There shall be a President of Kosovo, who shall be selected by the Assembly for a three year term. No person may serve more than two terms as President of Kosovo.

11. The President of Kosovo shall be responsible for:

- Representing Kosovo before any international or Federal body, or any body of the Republics.
- Proposing to the Assembly candidates for Prime Minister, the Constitutional Court, the Supreme Court, and other Kosovo judicial offices.
- Meeting regularly with the democratically elected representatives of the national communities and other persons.
- Conducting foreign relations and concluding agreements on behalf of Kosovo after they are approved by the Assembly, consistent with the authorities of Kosovo institutions under this Agreement.
- Serving or designating a representative to serve on the Joint Commission and Joint Council established by Article VII of this Agreement.
- Meeting regularly with the President of the Federal Republic of Yugoslavia, the President of Montenegro, and the President of Serbia.
- Other duties specified in this Agreement.

Government

12. Executive power shall be exercised by the Government. The Government shall be responsible for implementing and enforcing the laws of Kosovo, and of other government authorities when such responsibilities are devolved by those authorities. The Government shall also have the authority to propose laws to the Assembly.

(a) The Government shall consist of a Prime Minister and Ministers, including at least one person from each national community meeting the threshold specified in paragraph 1(b). Ministers shall head the Administrative Bodies of Kosovo.

(b) The candidate for Prime Minister proposed by the President shall put forward a list of Ministers to the Assembly. The Prime Minister and the proposed Ministers shall be approved by a majority of those present and voting in the Assembly.

In the event that the Prime Minister is not able to obtain a majority for the Government, the President shall propose a new candidate for Prime Minister within ten days.

(c) The Government shall serve at the confidence of the Assembly, and may be dissolved by majority vote of the Assembly. In the event of dissolution of the Government by the Assembly or because of resignation by the Prime Minister, the President shall select a new candidate for Prime Minister who shall seek to form a Government under the rules set forth in paragraph 12(b) of this Part.

(d) The Prime Minister shall call meetings of the Government, represent it in appropriate settings, and coordinate its work. Decisions of the Government shall require a majority of Ministers present and voting. The Prime Minister shall cast the deciding vote in the event Ministers are equally divided. The Government shall otherwise decide its own rules of procedure.

#### Administrative Bodies

13. Administrative Bodies shall be responsible for assisting the Government in carrying out its duties.

(a) Employees of administrative bodies shall be fairly representative of the population and national communities of Kosovo.

(b) Any citizen of Kosovo claiming to have been directly and adversely affected by the decision of an executive or administrative body shall have the right to judicial review of that decision after exhausting all avenues for Administrative review. The Assembly shall enact administrative law to regulate this review.

(c) An administrative body of Kosovo shall have primary responsibility for all criminal law enforcement matters in Kosovo, in accordance with Annex 2 to this Agreement.

### PART III: COURTS IN KOSOVO

#### General

1. Kosovo shall have a Constitutional Court, a Supreme Court, District Courts, and Communal Courts. The Kosovo Supreme Court shall, upon approval by the Kosovo Assembly, promulgate rules of procedure consistent with this Agreement to guide the courts' activities.

2. The Kosovo courts shall have jurisdiction over all matters arising in Kosovo under the Constitution and laws of Kosovo and laws of the Assembly except as specified in paragraph 4.

3. The Kosovo courts shall also have jurisdiction over matters arising in Kosovo under federal law or raising questions of federal law. Disputes resending questions of federal law may be appealed to the Federal courts on those federal legal questions after all appeals available under the Kosovo system have been exhausted.

4. Citizens in Kosovo may opt to have civil disputes to which they are a party adjudicated by the Republic courts, which shall apply applicable Kosovo law and shall refer matters falling within paragraph 6(b) to the

Constitutional Court of Kosovo. Criminal defendants may seek access to and participation of Republic officials in Kosovo proceedings.

#### Members of the Judiciary

5. Composition. The Constitutional Court shall consist of nine judges. The Supreme Court shall consist of nine judges. The Assembly shall determine the number of other judges necessary to meet current needs.

- (a) The judges shall be distinguished jurists of the highest moral character.
- (b) The judges shall be broadly representative of the national communities of Kosovo. There shall be a least one Constitutional Court judge and one Supreme Court judge from each national community qualifying for seats in the Kosovo Assembly under paragraph 1(b) of this Part.
- (c) Until such time as the parties mutually agree to discontinue this arrangement or the Federal Republic of Yugoslavia becomes a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms, a majority of judges on the Constitutional Court shall be selected from a list presented by the Committee of Ministers of the Council of Europe pursuant to Council Resolution (93)6.
- (d) Removal of a Kosovo judge shall require the consensus of the judges of the Constitutional Court. A Constitutional Court judge whose dismissal is in question shall not participate in the deliberations on his case.

#### 6. Jurisdiction of the Constitutional Court.

The Constitutional Court shall have sole authority to resolve disputes relating to the meaning of the Kosovo Constitution. That authority shall include, but is not limited to, determining whether decisions or actions of the President, the Assembly, the Government, the Communes, and the national communities are compatible with the Kosovo Constitution.

- (a) Matters may be referred to the Court by the President of Kosovo, the President or Vice-Presidents of the Assembly, the Ombudsman, the communal assemblies and councils, and any national community acting according to its democratic procedures.
- (b) Any 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 shall refer the issue to the Court for a preliminary decision.
- (c) Following the exhaustion of other legal remedies, the Court shall at the request of any natural or legal person or association have jurisdiction over complaints that human rights and fundamental freedoms and the rights of members of national communities set forth in this Agreement have been violated by a public authority.
- (d) The Constitution of Kosovo may provide that the Court shall have jurisdiction over other questions arising under it. The Constitutional Court shall have such other authorities and jurisdiction as may be specified elsewhere in this Agreement.

7. Jurisdiction of the Supreme Court. The Supreme Court shall hear appeals from the District Courts and the Communal Courts. Subject to the specific powers of the Constitutional Court, and to paragraph 4 of this Part, the Supreme Court shall take the final decision in all cases arising within Kosovo. Its decisions shall be recognized and executed by all public authorities on the territory of the Federal Republic of Yugoslavia.

8. Functioning of the Courts. The Constitutional and Supreme Courts shall each adopt decisions by majority vote of their members. All Kosovo courts shall hold public proceedings, and issue published opinions setting forth the reasons for their decisions along with any dissenting views.

#### PART IV. THE OMBUDSMAN

1. There shall be an Ombudsman, who shall monitor the realization of the rights of members of national communities and the Protection of human rights and fundamental freedoms in Kosovo.

- (a) The Ombudsman shall be an eminent person of high moral standing who possesses a demonstrated commitment to human rights and the rights of the national communities.
- (b) He or she shall be nominated by the President and shall be elected by the Assembly from a list of candidates prepared by the President of the European Court for Human Rights for a non-renewable three year term.

2. The Ombudsman shall be independently responsible for choosing his or her own staff. He or she shall have two Deputies. The Deputies shall each be drawn from different national communities, and neither shall be from the same national community as the Ombudsman if he or she is a member of a national community in Kosovo.

3. The Ombudsman shall have unimpeded access to any person or place and shall have the right to appear and intervene before any domestic, Federal, or (consistent with the rules of such bodies) international authority upon his or her request. The Ombudsman shall have other powers and jurisdiction as set forth in Annex I.

#### PART V. COMMUNES

1. Kosovo shall have the existing communes. Changes may be made to communal boundaries by act of the Kosovo Assembly.

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.

(a) Each national community whose membership constitutes at least five percent of the population of the commune shall be represented on the Council in proportion to its share of the communal population or by one member, whichever is greater.

(b) Prior to the completion of a census, disputes over communal population percentages for purposes of this paragraph shall be resolved by the Head of the Kosovo Verification Mission or his designee taking into account past census data and other information.

4. The communes shall have 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.
- Providing education, consistent with the rights and duties of national communities, and in a spirit of tolerance between national communities and respect for the rights of the members of all national communities in accordance with international standards.
- 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 of Kosovo-wide public works projects in coordination with other communes and Kosovo authorities.
- Regulating land use, town planning, building regulations, and housing construction.
- 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. The communes shall exercise the authorities specified in paragraph 4 and shall also have responsibility for all other areas not expressly assigned elsewhere by this Agreement, subject to the provisions of Article II, Part II.2(b).

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

### **III. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

1. The Parties shall ensure respect for internationally recognized human rights and fundamental freedoms in Kosovo.

2. Applicable rights and freedoms shall include those specified in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols.

(a) The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Kosovo. These shall have priority over all other law.

(b) 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.

### **IV. RIGHTS AND DUTIES OF NATIONAL COMMUNITIES AND THEIR MEMBERS**

1. National communities and their members 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. They shall have these rights without regard to their representation as a percentage of the Kosovo population.

2. Each national community shall elect through democratic means in a manner consistent with the provisions of Annex 3 institutions to administer its affairs in Kosovo.

3. The national communities shall be subject to the laws enacted by the Kosovo Assembly, provided that any action concerning national communities must be nondiscriminatory. The Assembly shall decide upon a procedure for resolving disputes between national communities.

4. The additional rights of the national communities, acting through their democratically elected institutions are to:

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

- 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 institutions.
- providing information in the language and alphabet of the national community.
- providing for education and establishing educational institutions, in particular for schooling in their own language and alphabet and in national culture and history, for which relevant authorities will provide financial assistance; curricula shall reflect a spirit of tolerance between national communities and respect for the rights of members of all national communities in accordance with international standards.
- enjoying unhindered contacts with representatives of their respective national communities, within the Federal Republic of Yugoslavia and abroad.
- using and displaying national symbols, including symbols of the Federal Republic of Yugoslavia and the Republic of Serbia;

- 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 to the national community, in cooperation with other authorities.
  - implementing public health and social services.
  - operating religious institutions in cooperation with religious authorities.
  - participating in regional and international non-governmental organizations in accordance with procedures of these organizations.
- (b) be guaranteed at least one radio and one television frequency, which they shall each administer subject to non-discriminatory, technical standards;
- (c) finance their activities by collecting charges the national communities may decide to levy on members of their own communities.

5. Members of national communities shall also be individually guaranteed:

- the right to enjoy unhindered contacts with members of their respective national communities elsewhere in the Federal Republic of Yugoslavia and abroad.
- equal access to employment in public services at all levels.
- the right to use their languages and alphabets.
- the right to use and display national community symbols.
- the right to participate in democratic institutions that will determine the national community's exercise of the collective rights set forth in this Article.
- the right to establish cultural and religious associations, for which relevant authorities will provide financial assistance.

6. Each national community and, where appropriate, their members acting individually may exercise these additional rights through Federal institutions and institutions of the Republics, in accordance with the procedures of those institutions and without prejudice to the ability of Kosovo institutions to carry out their responsibilities.

## **V. REPRESENTATION OF KOSOVO IN FEDERAL AND REPUBLIC INSTITUTIONS**

1. Kosovo shall be offered the following representation, without prejudice to the rights of persons in Kosovo to decide whether to accept this offer:

- (a) At least 10 deputies in the House of Citizens of the Federal Assembly.
- (b) At least 20 deputies in the National Assembly of the Republic of Serbia.
- (c) The opportunity for the Kosovo Assembly to present to the appropriate authorities a list of candidates from which shall be drawn:
  - (i) at least one citizen in Kosovo to serve in the Federal Government, and at least one citizen to serve in the Government of the Republic of Serbia.
  - (ii) at least one judge on the Federal Constitutional Court, one judge on the Federal Court, and three judges on the Supreme Court of Serbia.

## **VI. 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. In particular, Republic authorities shall have no right to levy or collect taxes on Kosovo sources.

2. Revenue from certain Kosovo taxes and duties shall accrue to the Communes, taking into account the need for an equalization of revenues between the Communes based on objective criteria. The Assembly shall enact appropriate nondiscriminatory legislation for this purpose. The Communes shall also have authority to levy local taxes in accordance with this Agreement.

3. Federal and other authorities shall facilitate the delivery of resources from international sources to Kosovo to the extent of their respective powers, and in particular shall allow unfettered access of persons delivering such resources.

#### Other Economic Issues

4. The Parties agree to the following arrangements for: the disposition of government owned assets in Kosovo (including educational institutions and hospitals); the resolution of disputes over pension and social insurance contributions; and the resolution of any other matters relating to economic relations between the parties not covered by this Agreement.

(a) The Parties shall make a good faith effort to mediate these disputes under the auspices of the Head of the Kosovo Verification Mission or his designee.

(b) In the event the Parties cannot reach agreement, the Head of the Kosovo Verification Mission shall arbitrate the disputed issues. His decision shall be final and binding on the Parties.

### **VII. JOINT COUNCIL AND JOINT COMMISSION**

#### Joint Council

1. 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. Its activities shall be funded equally by the participating 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 VIII-5 of this Agreement.

#### Joint Commission

2. 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 and the Ombudsman, and international representatives of the Kosovo Verification Mission.

3. The head of the Kosovo Verification Mission shall serve as the Chair of the Joint Commission. The Chair will coordinate and organize the work of the Joint Commission, supervise the overall implementation of this Agreement, and shall have other powers, authorities, and duties as set forth herein or as may be later agreed by the Parties.

4. The Parties shall cooperate with the Commission and its Chair. The Joint Commission as a whole and the Chair individually on his own initiative shall have safe, complete, and unimpeded access -6c 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 of Yugoslavia.

5. In the event of disagreement as to the meaning of any provision of this Agreement a Party may petition the Chair of the Joint Commission, who shall have final authority to resolve such disputes.. The Parties agree to abide by his decisions.

### **VIII. 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. The Parties shall grant full and immediate access by the ICRC to all detainees, wherever they might be held.
2. The status of police and security forces in Kosovo shall be governed by the terms set forth in Annex 2. The parties shall abide by its provisions completely. The existence of any paramilitary or irregular force in Kosovo is incompatible with the spirit and terms of this Agreement.
3. The Parties shall facilitate the safe return of refugees and displaced persons to their homes. The Parties shall allow free and unimpeded access for humanitarian organizations and supplies to Kosovo, including materials for the reconstruction of homes and structures damaged during the conflict.
4. 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.
5. There will be no impediments to the normal flow of goods into Kosovo. All goods and materials entering Kosovo at an international border or transiting the Federal Republic of Yugoslavia for entry into Kosovo to be used by international organizations (whether governmental or nongovernmental) assisting in the reconstruction and development of Kosovo or the implementation of this Agreement shall enter without duties or taxes of any kind.
6. International personnel, including the Kosovo Verification Mission, shall be allowed unfettered entry, movement, and access to anyplace at any time throughout Kosovo. The Federal Republic of Yugoslavia shall waive all visa, customs, or licensing requirements of persons or things for the Kosovo Verification Mission, UNHCR, and other international organizations and NGO's working in Kosovo. The FRY shall provide all necessary facilities, including frequencies for radio communications, to all humanitarian organizations responsible for delivering aid in the region. It is expected that international personnel will be present at all times in selected communities.
7. The Parties shall immediately comply with all Kosovo Verification Mission support requests. KVM shall have its own broadcast frequencies for radio and television programming in Kosovo.
8. All Parties shall comply with their obligation to cooperate in the investigation and prosecution of war crimes, crimes against humanity, and other serious violations of international humanitarian law. The parties will allow complete, unimpeded, and unfettered access to international experts-including forensics experts and investigators from the International Criminal Tribunal for the Former Yugoslavia (ICTY)-to investigate such allegations. Pursuant to the terms of UN Security Council resolution 827 and subsequent resolutions, the Parties shall provide full support and cooperation for the activities of the ICTY, including complying with its orders and requests for information, and facilitating its investigations.
9. The Parties shall not Prosecute anyone for crimes related to the conflict in Kosovo, except for those who have committed war crimes, crimes against humanity, and other serious violations of international humanitarian law.
10. With respect to persons already convicted, there shall be a general amnesty for all persons in Kosovo convicted of committing politically motivated crimes related to the conflict in Kosovo. This amnesty shall not apply to those properly convicted of committing war crimes, crimes against humanity, or other serious violations of international humanitarian law at a fair and open trial conducted pursuant to international standards.
11. Recognizing the importance of free and independent media to the development of a political climate necessary for the reconstruction and development of Kosovo, the Parties shall ensure the widest possible press freedoms in all mediums, including print, television, and radio. Prior to the election of Kosovo

officials pursuant to this Agreement, the head of the KVM shall promulgate such rules as may be necessary to ensure the flourishing of independent media in keeping with international standards, including allocation of radio and television frequencies.

## **IX. IMPLEMENTATION PERIOD**

1. This Agreement shall be implemented as quickly as possible, under the supervision of the head of the KVM pursuant to a schedule that he shall specify. The Parties undertake to allow insofar as possible implementation of individual elements, not conditioned on the adoption and undertaking of other acts and measures required to implement this Agreement.

2. The Parties acknowledge that complete implementation will require political acts and measures, and the election and establishment of institutions and bodies set forth in this Agreement. The Parties agree to proceed expeditiously with this task under the supervision and direction of the head of the KVM.

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 and pursuant to procedures specified in Annex 3 of this Agreement for authorities established herein, according to a voter registry prepared to international standards by the Central Election Commission. 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 and experts nominated by and belonging to the major national communities of Kosovo, Federal authorities shall conduct an objective and free census of the population in Kosovo under rules and regulations agreed with the OSCE in accordance with international standards. The census shall be carried out when the OSCE determines that conditions allow an objective and accurate enumeration.

(a) The first census shall be limited to name, place of birth, place of usual residence and address, gender, age, citizenship, national community, and religion.

(b) The institutions and authorities of the Parties shall provide each other and the OSCE with all records necessary to conduct the census, including data about places of residence, citizenship, voters' lists, and other information.

6. The Parties shall provide active support, cooperation, and participation for the successful implementation of the Agreement.

7. Unless otherwise specified herein or in any Annex hereto, institutions currently in place in Kosovo shall remain until the establishment of the bodies created by this Agreement. The head of the KVM may order existing institutions to cease operations on the grounds that they are functioning in a manner contrary to the spirit or terms of this Agreement. During this transitional period, the KVM head may also designate persons to serve on an interim basis in administrative and judicial capacities and shall also have the authority to remove officials from office.

8. Martial law shall be repealed. Laws compatible with this Agreement shall remain in force until replaced by the decision of a competent body established herein, and shall become part of the law of the entity responsible according to this Agreement.

## **X. AMENDMENTS**

1. Amendments to the Agreement shall be adopted by agreement of all the parties.

2. Each Party may propose amendments at any time and will consider and consult with the other with regard to proposed amendments.
3. [In three years, there shall be a comprehensive assessment of this Agreement under international auspices with the aim of improving its implementation and determining whether to implement proposals by either side for additional steps, by a procedure to be Determined taking into account the Parties' roles in and compliance with this Agreement.]

## **XI. FINAL PROVISIONS**

1. This Agreement is concluded in the Albanian, English, and Serbian languages. Each version shall be equally authentic, but in the event of a conflict the English text shall be definitive.
2. This Agreement shall enter into force upon conclusion of the document.

FOR	FOR	FOR
Federal Republic of Republic of Kosovo	Yugoslavia	Serbia

### ANNEX 1: THE OMBUDSMAN

#### General

1. 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.
2. The salaries and expenses of the Ombudsman and his or her staff shall be determined and paid by the Kosovo Assembly. The salaries and expenses shall be fully adequate to implement the Ombudsman's mandate.
3. 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.  
Jurisdiction
4. The Ombudsman shall consider:
  - (a) alleged or apparent violations of human rights and fundamental freedoms in Kosovo, as provided in the Constitutions of the Federal Republic of Yugoslavia and the Republic of Serbia, and the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto; and
  - (b) alleged or apparent violations of the rights of national communities specified in this Agreement.

5. All persons 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

6. 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.

7. The Ombudsman shall have complete, unimpeded, and immediate access to any person, space, or information upon his or her request.

(a) He shall have access to and may examine all official documents, and he can require any person, including officials of Kosovo, the Republic of Serbia, 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) The Parties undertake to ensure cooperation with the Ombudsman's investigations. Willful and knowing failure to comply shall be a criminal offense prosecutable in any jurisdiction of the Parties. 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.

8. 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 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 VII of this Agreement, to the President of the appropriate Party, and to any other officials or institutions that the Ombudsman deems proper.

9. The Ombudsman shall promptly report to the International Criminal Tribunal for the Former Yugoslavia evidence of war crimes, crimes against humanity, and other serious violations of international humanitarian law that may fall within the jurisdiction of that tribunal.

## ANNEX 2: POLICE AND SECURITY

### I. GENERAL PRINCIPLES

A. In exercising authorities under this Annex, all law enforcement and military components shall act in compliance with this Agreement and shall observe internationally recognized standards of human rights, due process, and fundamental fairness.

B. The KVM shall monitor the enforcement of this Annex and related provisions of the Agreement, and supervise their implementation. The Parties agree to cooperate fully with the KVM and to comply with its directives.

C. In addition to other responsibilities specified in this Annex and the Agreement, the KVM shall have the authority to:

1. Monitor, observe, and inspect law enforcement activities, personnel, and facilities, including associated judicial organizations, structures, and proceedings;

2. Advise law enforcement personnel and forces and, when necessary to bring them into compliance with this Agreement and Annex, issue appropriate binding directives;

3. Participate in and guide the training of law enforcement personnel;

4. Assess threats to public order and advise on the capability of law enforcement agencies to deal with such threats;
5. Advise and provide guidance to governmental authorities on the organization of effective civilian law enforcement agencies; and
6. Accompany the Parties' law enforcement personnel as they carry out their responsibilities, as the KVM deems appropriate.

D. 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. This obligation includes a duty to permit the unobstructed passage into Kosovo of police equipment which has been approved by the KVM for use by Kosovo police.

E. The Parties undertake to provide one another mutual assistance in the extradition of those accused of committing criminal acts within a Party's jurisdiction, and in the investigation and prosecution of cross-border offenses. The Parties shall develop agreed procedures and mechanisms for responding to these requests. The head of the KVM or his designee shall resolve disputes on these matters.

## II. LAW ENFORCEMENT COMPONENTS.

### A. Communal Police Units

1. Communal police units, organized and stationed at the communal and municipal levels, shall have primary responsibility for 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. Number. The total number of communal police operating within Kosovo shall not exceed 2,700 active duty law enforcement officers.

3. Criminal Justice Administration. Communal police units shall be coordinated by the Criminal Justice Administration (CJA), which shall be an Administrative Body of Kosovo. The CJA shall report to the Government of Kosovo.

4. Communal Commanders. Each commune will appoint, and may remove for cause, a communal police commander with responsibility for police operations within the commune.

### 5. Service in Police.

- a. Communal police recruitment will be conducted primarily at the local level. Local and communal governments, upon consultation with communal security commissions, will nominate officer candidates to attend the Kosovo Police Academy. Offers of employment will be made by communal police commanders, with the concurrence of the academy director, only after the candidate has successfully completed the academy basic recruit course.
- b. Recruitment, selection and training of communal police officers shall be conducted under the direction of the KVM during the period of its operation.
- c. There shall be no bar to service in the communal police based on prior political activities. Members of the police shall not, however, be permitted while they hold this public office to participate in partisan Political activities other than belonging to a political party and voting for candidates at elections.
- d. Continued service in the police is dependent upon behavior consistent with the terms of this Annex and the Agreement. The KVM shall supervise regular reviews of officer performance, which shall be conducted in accordance with international due process norms. The KVM shall have the authority to dismiss or discipline officers for cause.

## 6. Uniforms and Equipment

- a. All communal police officers, with the exception of officers participating in crowd control functions, will wear a standard dark blue uniform. Uniforms will include a badge, picture identification, and name tag.
- b. Communal police Officers will be equipped with a sidearm, handcuffs, a baton, and a radio.
- c. Each commune may maintain, either at the communal headquarters or at municipal stations, no more than 20 long-barreled weapons.
  - i. Long-barreled weapons may be carried or used only with the permission of the communal police commander in response to serious law enforcement problems clearly justifying their release from storage. When not in use, all weapons will be securely stored and each commune will keep a registry of all weapons assigned to it.
  - ii. If the head of the KVM determines that a long barreled weapon has been used by a communal police force in a manner contrary to this Annex, he may take appropriate corrective measures; such measures may include reducing the number of such weapons that the communal police force is allowed to possess.
- d. Communal police officers engaged in crowd controls functions will receive equipment appropriate to their task, including batons, helmets and shields.

### B. Interim Police Academy

1. Under the supervision of the KVM, the Kosovo CJA shall establish an interim Police Academy that will offer mandatory and professional development training for all communal police officers. All police candidates will be required to successfully complete a course of police studies before serving as communal police officers.
2. The Academy shall be headed by a Director appointed and removed by the CJA in consultation with the Kosovo Security Commission and the KVM. The Director shall consult closely with the KVM and comply fully with its recommendations and guidance.

## III. SECURITY COMMISSIONS

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

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

- a. Monitor, review, and make recommendations regarding the operation of law enforcement personnel and policies in Kosovo, including communal police units.
- b. Review, and make recommendations regarding the recruitment, selection and training of communal police officers and commanders.
- c. Consider complaints regarding police practices filed by individuals or national communities, and provide information and recommendations to the head of the KVM for consideration in its reviews of officer performance.
- d. In the Kosovo Security Commission only: In consultation with designated local, Republic and Federal police liaisons, monitor jurisdiction sharing in cases of overlapping criminal jurisdiction between Kosovo, Republic and Federal authorities.

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

1. In the Kosovo Security Commission:
  - a. a representative of each commune.
  - b. the head of the Kosovo CJA.
  - c. a representative of each Republic and Federal law enforcement component operating in Kosovo (for example, Customs police and Border police).
  - d. a representative of each national community.
  - e. a representative of the KVM, during its period of operation in Kosovo.
  - f. a representative of the VJ.
  
2. In the Communal Security Commissions:
  - a. the communal police commander.
  - b. a representative of any Republic and Federal law enforcement component operating in the commune.
  - c. a representative of each national community.
  - d. a civilian representative of the communal government.
  - e. a representative of the KVM, during its period of operation in Kosovo.
  - f. a representative of the VJ, who shall have observer status.

D. Each Security Commission shall meet at least monthly, or at the request of any Commission member.

#### IV. POLICE OPERATIONS IN KOSOVO

A. The communal police established by this Agreement shall have exclusive law enforcement authority and jurisdiction and shall be the only police or security presence in Kosovo, with the exceptions set forth in this Article and Article V of this Annex.

1. The Republic of Serbia shall immediately withdraw its security forces in Kosovo (hereinafter referred to as "MUP") to 2,500 officers, and shall in no event exceed that level of deployment with the exception of separate provisions for border police in Article V.A of this Annex. All anti-terror forces, special forces, special police, armored vehicles - including APC's, self-propelled Air Defense Artillery (ADA), and armored reconnaissance vehicles weighing more than six tons - and all weapon systems of 12.7 millimeters and above shall be withdrawn from Kosovo immediately.
2. The remaining MUP shall carry out only normal policing duties at the direction of the head of the KVM, and shall withdraw according to a progressive schedule to be determined by the KVM head. As communal police are trained and become available for deployment, law enforcement responsibility shall be transferred to the local police. It is expected that this transfer will occur in phases. The head of the KVM may specify particular regions or localities for withdrawal of all MUP and early transfer to local policing during this transitional period.
3. During the period of phased withdrawal, MUP in Kosovo shall serve under the supervision and direction of the head of the KVM. The head of KVM shall have the authority to order Individual MUP officers or units to leave Kosovo at any time, and to take, or refrain from taking, any action he deems necessary to effect the implementation of this Agreement.
4. Notwithstanding paragraph 2, all MUP shall be withdrawn no later than 12 months after the entry into force of this Agreement with the exception of Border Police as specified in Article V.A. The head of KVM shall have the discretion to extend this deadline for up to an additional 12 months if necessary to meet operational needs.

B. Concurrent Law Enforcement in Kosovo

1. With the exception of IV.A above, Federal and Republic law enforcement officials may only act within Kosovo in cases of :
  - a) Hot pursuit of a person suspected of committing a felony criminal offense who has entered Kosovo in order to flee arrest.

(i) Federal and Republic authorities shall as soon as practicable, but in no event later than one hour after their entry into Kosovo, notify the nearest Kosovo law enforcement officials that the pursuit has crossed into Kosovo. Once notification has been made, further pursuit and apprehension shall be coordinated with Kosovo law enforcement. Following apprehension, suspects shall be placed into the custody of the authorities originating the pursuit. If the suspect has not been apprehended within four hours, the original pursuing authorities shall cease their pursuit and immediately depart Kosovo unless invited to continue their pursuit by the CJA or the head of the KVM.

(ii) In the event the pursuit is of such short duration as to preclude notification, Kosovo law enforcement officials shall be notified that an apprehension has been made and shall be informed prior to the detained person being moved.

(iii) The same rules will apply to hot pursuit of suspects by Kosovo law enforcement authorities to Federal territory outside of Kosovo.

b) The President of Kosovo may on a purely voluntary basis request that Federal and Republic law enforcement officials assist in law enforcement matters in Kosovo. Federal and Republic officials shall comply with reasonable requests for assistance.

## V. SECURITY ON THE INTERNATIONAL BORDERS

The Government of the FRY will maintain official border crossings on its international borders (Albania and FYROM). Personnel from the organizations listed below may be present along Kosovo's international borders and at international border crossings, and may not act outside the scope of the authorities specified in this Annex.

### A. Republic Border Police

1. The Border Police shall continue to exercise authority at Kosovo's international border crossings and in connection with the enforcement of Federal Republic of Yugoslavia immigration laws. The total number of border police shall be limited to 75. All border police in excess of this figure shall immediately leave Kosovo.

2. Membership. While maintaining the personnel threshold specified in paragraph one, the ranks of the existing Border Police units operating in Kosovo shall be supplemented by new recruits so that they are representative of the Kosovo population.

3. Training. All Border Police stationed in Kosovo must attend police training at the Kosovo police academy.

### B. The Federal Army (VJ)

1. VJ garrisons shall be limited to pre-February 1998 Border Guard Battalions located in Djakovica, Prizren, and Urosevac and subordinate facilities within 5 km of the FRY-Albania and FRY-FYROM border (specified on the attached map). There shall be no more than 1,506 members of the VJ present at any time in Kosovo. Border Guard units at the above locations shall be limited to weapons of 82 millimeters and below. Border Guard units shall not maintain armored vehicles above six tons - including APC'S, BOV's, and BRDM's - or Air Defense Artillery weapons in Kosovo. The VJ shall immediately withdraw from Kosovo all forces and equipment above this level. VJ units shall not deploy mines.

2. VJ units shall be permitted to patrol in Kosovo only within 5 km of the international border, and solely for the purposes of defending the borders against external attack and maintaining their integrity.

3. The VJ may travel through the territory of Kosovo to reach its duty stations and garrisons only along routes that have been agreed upon between the VJ and communal police commanders. In the event that they are unable to agree, the head of the KVM shall have binding authority to resolve disputes. VJ forces transiting and deployed in Kosovo shall be permitted to act only in response to direct threat to life or property, pursuant to rules of engagement agreed with the head of the KVM.

### 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. The total number of customs personnel shall be limited to 50. All customs personnel in excess of this figure shall immediately leave Kosovo.
2. While maintaining the personnel threshold specified in paragraph 1, the FRY Customs Service shall recruit persons of Kosovar Albanian ethnicity to work as officers within the Customs Service. Within eight months of the effective date of this agreement, each unit of Customs officers 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 compensated by the FRY. The FRY shall receive all customs duties collected at Kosovo's international borders.

## VI. OTHER SECURITY ISSUES

1. No Party shall deploy mines anywhere in Kosovo. The Parties shall provide the KVM with all information in their possession as to the location of existing minefields to, facilitate humanitarian demining efforts.
2. Within three months of the conclusion of this Agreement, all existing paramilitary and irregular forces in Kosovo shall disband in accordance with the timetable and rules to be promulgated by the KVM director. The KVM will supervise the disbandment of paramilitary and irregular forces, which shall turn in to the KVM all weapons having a caliber of greater than 7.62 millimeters. The KVM will arrange for the destruction of these weapons. No new paramilitary and irregular forces will be permitted while this Agreement is in force.

## VI. ARREST AND DETENTION

- A. Except as noted in Article IV of this Annex and in the following paragraphs, only officers of the communal police shall have authority to arrest and detain individuals in the territory of Kosovo. Officers may use reasonable and necessary force proportionate to the circumstances for these purposes. Immediately upon making such arrests, communal police authorities shall notify the detention, and the location of the detainee, to the appropriate communal security commission.
- B. Border Police officers shall have authority within Kosovo to arrest and detain individuals who have violated criminal provisions of the immigration laws. Immediately upon arrest, Border Police officers shall notify the detention, and the location of the detainee to the appropriate communal security commission.
- C. Officers of the Customs Service shall have authority within Kosovo to arrest and detain individuals for criminal violations of the customs laws. Immediately upon arrest, Customs Service officers shall notify the detention, and the location of the detainee, to the appropriate communal security commission.

## VII. ADMINISTRATION OF JUSTICE

### A. Authorities

1. Except in accordance with paragraph 2, any person arrested within Kosovo shall be subject to the jurisdiction of the Kosovo courts.
2. Any person arrested within Kosovo, in accordance with the law and with this Agreement, by the Border Police or Customs Police shall be subject to the jurisdiction of Federal Republic of Yugoslavia courts. If there is no applicable court of the Federal Republic of Yugoslavia to hear the case, then the Kosovo courts shall have jurisdiction.

### B. 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 criminal courts of Kosovo.

2. The CJA shall appoint, and have the authority to remove, a Chief Prosecutor with responsibility for the Office of the Prosecutor.

### C. PRISONS

1. 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.
2. Prisons shall be operated consistent with international standards. Access shall be provided to international personnel, including the ICRC.

### ANNEX 3: CONDUCT AND SUPERVISION OF ELECTIONS

#### Conditions for Elections

1. The Parties shall ensure that conditions exist for the organization of free and fair elections, which include but are not limited to:
  - a) freedom of movement for all citizens;
  - b) an open and free political environment;
  - c) an environment conducive to the return of displaced persons;
  - d) a safe and secure environment that ensures freedom of assembly, association, and expression;
  - e) an electoral legal framework of rules and regulations complying with OSCE commitments, which will be implemented by a Central Election Commission representative of the population of Kosovo in terms of national communities and political parties;
  - f) free media, effectively accessible to all registered political parties and candidates, and available to voters throughout Kosovo;
2. The Parties request the OSCE to certify when elections will be effective under current conditions in Kosovo, and to provide assistance to the Parties to create conditions for free and fair elections.
3. The Parties shall comply fully with Paragraphs 7 and 8 of the OSCE Copenhagen Document, which are attached to this Agreement.

#### The OSCE Role

4. The Parties request the OSCE to adopt and put in place an elections program for Kosovo and supervise elections as set forth in this Agreement.
5. The Parties request the OSCE to supervise, in a manner to be determined by the OSCE and in cooperation with other international organizations the OSCE deems necessary, the preparation and conduct of elections for:
  - a) Members of the Kosovo Assembly;
  - b) Members of Communal Assemblies;
  - c) other officials popularly elected in Kosovo under this Agreement and the laws and Constitution of Kosovo at the discretion of the OSCE.
6. The Parties request the OSCE to establish a Central Election Commission in Kosovo ("the Commission").
7. Consistent with Article IX.4, the first elections shall be held within nine months of the entry into force of this Agreement. The President of the Commission shall decide, in consultation with the Parties, the exact timing and order of elections for Kosovo political offices.  
The Central Election Commission

8. The Commission shall adopt electoral Rules and Regulations on all matters necessary for the conduct of free and fair elections in Kosovo, including rules relating to: the eligibility of candidates, parties, and voters; ensuring a free and fair elections campaign; administrative and technical preparation for elections including the establishment, publication, and certification of election results; and the role of international and domestic election observers.

9. The responsibilities of the Commission, as provided in the electoral Rules and Regulations, shall include:

- a) the preparation, conduct, and supervision of all aspects of the electoral process, including development and supervision of political party and voter registration, and creation of secure and transparent procedures for production and dissemination of ballots and sensitive election materials, vote counts, tabulations, and publication of elections results;
- b) ensuring compliance with the electoral Rules and Regulations, established pursuant to this Agreement;
- c) ensuring that action is taken to remedy any violation of any provision of this Agreement, including imposing penalties such as removal from candidate or party lists, against any person, candidate, political party, or body that violates such provisions; and
- d) accrediting observers, including personnel from international organizations and foreign and domestic non-governmental organizations, and ensuring that the Parties grant the accredited observers unimpeded access and movement.

10. The Commission shall consist of the Head of the OSCE Kosovo Verification Mission or his representative, representatives of national communities and political parties in Kosovo, and any such other persons as the Head of the Kosovo Verification Mission may decide. The Head of the Kosovo Verification Mission shall act as the President of the Commission. In the event of disputes within the Commission, the decision of the President shall be final.

11. The Commission shall enjoy the right to establish communication facilities, and to engage local and administrative staff.

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