



Coordination Centre of Federal Republic of Yugoslavia
and Republic of Serbia for Kosovo and Metohia



**THE BASIS OF POLITICAL PLATFORM
FOR DEMOCRATIC DECENTRALIZATION IN KOSOVO AND
STRENGTHENING SELF – GOVERNMENT OF LOCAL,
NATIONAL AND REGIONAL COMMUNITIES**

PROJECT IDEA FOR AMENDMENTS

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SELF ADMINISTRATION OF COMMUNITIES AND ITS MEMBERS IN
KOSOVO**

BELGRADE, SEPTEMBER 2002.

Summary: Establishment and strengthening of *local democracy* is a pre-condition for a lasting stabilization and successful institution building in Kosovo and Metohija. This specifically implies both a clear political strategy and decisive actions aimed at decentralization of power on the one hand, and complex processes of self-organization, self-administration and setting up of structures and institutions of democratic self-government of local, national and regional communities, on the other hand.

Taking this as a point of departure, and within the context of the implementation of the project *Building and Development of Local Self-Government in Kosovo and Metohija*, members of the expert team, engaged by Coordination Centre of Federal Republic of Yugoslavia and Republic of Serbia for Kosovo and Metohia, have prepared a document *Bases of the Strategy* relating to the following: a) decentralization of Kosovo and Metohija, on the one hand, and b) strengthening of self-government of local, national and regional communities, on the other hand.

Questions that are particularly dealt with in the *Bases of the Strategy* relate to local democracy, local self-government, national communities, regional communities, the city, the Assembly of Kosovo and working out of a model normative act on self-government of local, national and regional communities.

I. INTRODUCTION

I. 1. Political and security stability. Political and security stability in Kosovo and Metohija necessitates building of stable and credible social, political and legal institutions. Establishment and strengthening of local democracy represents a prerequisite for attainment of these objectives.

Promotion of local democracy in Kosovo requires, in addition to decentralization of the "central" authority, introduction and strengthening of structures and institutions of self-government of local, national and regional communities along with introduction and strengthening of certain functional aspects of public policy of not only local communities (e.g. municipalities) but also of special forms of sub-local (e.g. local communities) and supra-local (e.g. regional communities, the city) communities. In addition, particular efforts have to be made to create and maintain conditions for the promotion and implementation of the principles of multi-ethnicity, multi-culturalism and multi-religion, above all in relation to persons belonging to national communities.

Departing from relevant documents, above all, from the *Resolution 1244/99* of the United Nations and the *UNMIK regulation no. 2001/9 on constitutional framework for provisional self-government in Kosovo*, on the one hand, and political facts such as results of local elections of 2000 and results of the elections for Kosovo self-government of 2001, on the other hand, the resulting outcome is that the question of decentralization of power at the moment or rather creation of conditions for building of self-government institutions of local, national and regional communities represent a question of extreme relevance necessitating urgent articulation and solution. Importance of local elections in 2000 lies in the fact that initial institutions of local self-government in Kosovo were established after installation of provisional administration of the UN. However, the Serbian *national community did not take part in these elections*. In conformity with new developments and the need to build further for the time being provisional institutions in Kosovo, one has to head decisively for definition of a new and direct role of citizens and national communities and invigoration of their confidence in local self-government as a form of direct democracy.

I. 2. Decentralization and devolution of authority. In the present-day situation, one should design in real terms and synchronize the *process of devolution of powers*, which are now centralized in Kosovo at the UNMIK level, so as to have at the local level "receptors" that would have, in addition to organizational and functional, political and social capacities and abilities, to establish, above all, institutions of local self-government but also support and promote general and local processes of democratisation and direct participation of citizens in public policy and development of awareness of responsibility of individuals and communities - irrespective of political, ethnic, cultural or religious provenience – for the future of Kosovo. In the process of decentralization and institution building of self-government of local, national and regional communities account should be taken of multiethnicity and powerful ethnic distance existing among citizens in this area. For that reason, solutions to these questions should be conducive to the strengthening of mutual trust.

In order to carry out decentralization efficiently and begin the process of self-government building of local, national and regional communities within the framework of the provisional self-government in Kosovo as an entity under the interim international administration, it is necessary to ensure convincing security, political, administrative, economic and cultural guarantees to Albanians but also to Serbs and other national communities in Kosovo. Departing from the fact that national communities are an integral part of a multiethnic society and active factors of religious, cultural and linguistic pluralism, i. e. interculturalism both in Kosovo and the Republic of Serbia, it is necessary to protect and guarantee the exercise of rights and freedoms of all citizens, especially the right to national specificity of persons belonging to national communities, conforming to the highest level of international standards, particularly those laid down in the Charter of the United Nations, the Universal Declaration of Human Rights (1948), International Covenants on Human Rights (1966), the International Convention on the Elimination of all Forms of Racial Discrimination (1966), the UNESCO Convention against Discrimination in Education (1960), the UN Convention on the Rights of the Child (1989), the UN Declaration on the Rights of Persons Belonging to National or Ethnic,

Religious and Linguistic Minorities (1992), the European Council Framework Convention on the Rights of National Minorities (1994), the European Charter on Regional and Minority Languages (1992), the Final Act of the Conference on Security and Cooperation in Europe, Helsinki (1975), the Final Act of the Madrid Summit (1983), the Final Act of the Vienna Summit (1989), the Second Copenhagen Conference Document on the Human Dimension, CSCE (1990), the Paris Charter on a New Europe (1990), the Helsinki Document (1992) and other relevant OSCE documents.

This process has to run in accordance with the UN Security Council Resolution 1244 (1999) of 10 June 1999 and the constitutional framework for provisional self-government of 15 May 2001, participation of the international community, especially of the UNMIK and KFOR in the exercise of authority, i.e. ensuring peace and security, active involvement of UNMIK, self-governing institutions of Kosovo and Serbia in provision of internationally recognized human rights and freedoms as well as in creation of special institutions for efficient participation of all national communities, as a segment of peace-loving and democratic society, in the public life of Kosovo and the Republic of Serbia. The result would be reaching, step by step, a high level of democratic self-government in Kosovo, stabilization of the region of South-eastern Europe and establishment of cooperation between Belgrade and Pristina, along with reinforcement of regional cooperation of Albania, Montenegro, Macedonia, Serbia and Kosovo.

I. 3. Normative framework. Finally, in devising a working *model normative act* ("draft law") on decentralization and self-government building of local, national and regional communities in Kosovo and Metohija, the operational start should be the constitutional framework of the provisional self-government in Kosovo (UNMIK, 15 May 2001).

II. LOCAL COMMUNITY

II. 1. Democratic self-government. Established by peaceful and democratic means, including local referendums, an efficient local self-government, on the one hand, and administrative and territorial organization of Kosovo conforming to geographic, economic, demographic, cultural, historical and ethnic characteristics, including a possible regionalization, on the other hand, represent strong instruments of the protection of rights and freedoms of national communities and persons belonging to them, guaranteed in chapter 4. of the Constitutional framework for provisional self-government of Kosovo. Proceeding from real needs to develop democratic self-government, to establish and strengthen interethnic confidence and cooperation, and to bring into effect the letter and spirit of the Constitutional framework for provisional self-government in Kosovo, it is necessary to develop, in an agreed process, self-government of local, national and regional communities, including self-government of the Serb national community, based on the right to self-organization and self-administration. The basic units of local self-government in the implementation of the Strategy of decentralization and building of democratic self-government in Kosovo would be: a) local community and b) municipality.

II. 2. Local Community. The basic unit of provisional democratic self-government of Kosovo is a local community.

Local community is a *form of local self-government* established for an inhabited place, a number of connected small residential areas or for a part of a larger residential area, which make up in relation to other parts, a separately delineated smaller whole (e. g. a hamlet in rural areas or a quarter in urban ones). Local community is established as a *form of direct participation of citizens in decision-making in local matters.*

An initiative for establishment of a local community may be taken by citizens at their meetings, their organisations and associations, local community council, municipal or other bodies and organisations (specified by the by-law of a municipality).

Bodies of a local community are the following:

a) *Assembly of citizens* – as a form of indirect participation in decision taking (provided that individual decisions are taken subject to consultations with appropriate *national communities' council*).

b) *Local community council*, members of which are elected at citizens' meetings)

c) *Local office* - as an executive body.

The local community enjoys the status of a legal person.

In defining and specifying competences of local communities, *special cooperation with the UNMIK* should be established so as to determine exactly and precisely duties that are delegated permanently or entrusted temporarily to the local community concerned. In that way, distinction would be made between *duties that are devolved* on local communities for good and those that belong to *ad hoc entrusted duties* to the local community. The reason is that possibility should not be excluded of other (e.g. higher) levels of local self-government (e.g. municipalities) entrusting to a local community the performance of individual tasks falling within its own self-governing (e.g. municipal) sphere of work and which are of direct or everyday bearing on the life and work of citizens in a local community. Tasks from devolved and entrusted sphere of activity would be funded from the municipal budget.

II. 3. Municipality. Municipality is a unit of local self-government that is established, as a rule, for an area of a number of inhabited places that represent a natural, economic and social whole and that are connected by common interests of the population.

The municipality enjoys the status of a *legal person*.

The municipal by-law lays down in more detail competences and the way of work of municipal bodies, forms of direct decision-making of citizens on matters of local significance, establishment and operation of local communities, forms of cooperation

with other municipalities, association into broader regional communities, and other matters. In addition, the by-law of a municipality should also specify tasks that belong to its original ones and those that are permanently devolved or temporarily entrusted from its sphere of work and competence.

II. 4. Devolved powers and entrusted tasks

Devolution of powers and entrusting of tasks of the provisional local self-government of Kosovo to municipalities is a significant factor of decentralization and de-concentration, especially because a part of UNMIK's powers might be delegated to municipalities as units of local self-government.

a) Permanently **devolved powers to municipalities** would be:

- 1) Establishment of bodies, organisations and services for municipality needs and regulation of their organization and functioning;
- 2) Establishment of institutions and organisations in the field of education, health and social services, child care, physical culture and sports that would satisfy needs for general and vocational education, culture and arts, protection of the language of communities, development of health and social services in the territory of the municipality concerned, etc.;
- 3) Human environment protection and promotion of tourism and transport;
- 4) Making of development plans and programs and city planning along with instruments for their implementation;
- 5) Regulation and care for development of utilities;
- 6) Cooperation in the pursuance and control of tax policy;
- 7) Taking care of the organization of municipal (local) courts and their operation, and
- 8) Promotion of the staffing and activities of the local police.

b) **Entrusted tasks** are the ones falling within the framework of rights and obligations of the Provisional local self-government of Kosovo that are entrusted to the municipality to perform them. Entrusting of these tasks can be performed in the interest of a more efficient and rational exercise of rights and duties of citizens and satisfaction of needs of direct interest to the local population.

II.5. The local police. The existence of the **local (multiethnic) police** is of particular importance to maintaining public order and peace on the territory of the municipality. The local police would perform certain duties of interest for the local community and would, in particular, maintain public order and peace, the utilities order, regulate local transportation, ensure protection against fire and security of property and projects. With a view to implementing the process of reconciliation and strengthening of mutual trust, in municipalities the population of which is more than xy% multiethnic, the local police would also be multiethnic.

Municipal bodies are the following:

a) *The municipal assembly* – as a representative body of citizens of the municipality.

b) *The municipal government* – executive body of the municipality.

In municipalities where more than xy% are persons belonging to national communities, the Municipal assembly would be a *bicameral* one and would consist of: a) *municipal council of citizens of local self-government* and b) *municipal council of local and national communities*.

National communities would have also to have a satisfying (appropriate) participation percentage in the municipal government, administration, public enterprises and institutions. Municipal bodies would be obliged to consult, in their work and decision-making that relate to issues of relevance to freedoms and rights of persons belonging to national communities, councils of national communities (e.g. in case of appointment of school board members and other similar cases).

III. NATIONAL COMMUNITY

III.1. Democratic elections. Institutions of **self-organization and self-administration, i.e. of national communities' self-government** would be established on the basis of democratic elections. In these elections, carried out in every national community under the OSCE control, representatives of national communities would be elected for national community bodies that would also act, in addition to areas specified in chapter 4 of the

Constitutional framework for provisional self-government of Kosovo, in other areas of relevance to the exercise of:

- 1) The right to self-organization and self-administration;
- 2) The right to official use of the mother tongue;
- 3) The right to use the national flag and other symbols;
- 4) System of education, culture, information and sports, taking account of values and needs of the national community concerned;
- 5) Proportionate representation on the command staff and in professional military and police units, and in other public services;
- 6) The right to collect a self-contribution for the purpose of self-financing along with the right to financial aid from the Kosovo budget;
- 7) The right to international cooperation within the sphere of competence of provisional self-government of Kosovo.

III. 2. Political and legal basis. From the legal and political standpoint, the initial steps for attainment of proclaimed objectives is the establishment of forms of self-government of national communities, the basic forms of this organization being: a) national community council and b) national community union.

Establishment of these bodies enables vertical and horizontal linking of persons belonging to national communities and of national, minority self-governments. In that

way, conditions are created for materialization of this kind of government. Such a solution is in conformity with the principle of decentralization of democratic power, and with understanding of autonomy accepted in the *UN Security Council Resolution 1244 (1999)* and *Constitutional framework for provisional self-government of Kosovo*. Such autonomy heightens importance of the sphere of civil society and makes it possible for citizens – persons belonging to a minority community - to exercise their rights and freedoms.

III.3. National community council. National communities may establish national community councils as public bodies of national self-government. The council shall be established for the territory of a community (local community), municipality or city.

The Council enjoys the status of a *legal person*. It shall be established and registered under the same conditions as other social organizations and associations of citizens.

The Council adopts its own *bylaws* which, in accordance with the *Constitutional framework for provisional self-government*, relevant standard-setting or other acts, specifies, inter alia, the following:

- 1) The name, seat and symbol of the council,
- 2) The authority of the council and the manner of its functioning;
- 3) Organization of the council (forms, composition and powers of the main and auxiliary bodies, and working bodies,
- 4) The manner of election to all the bodies;
- 5) Ways of financing the council, management of resources and material goods,
- 6) Organization, financing and work of educational, cultural and other institutions established by the council,
- 7) Other matters (local national community holidays, recognitions granted by the national community council, etc.).

The *competence of the Council* is a) to represent the national community and b) to elect or organize election of representatives of national communities in the bodies provide for by law or relevant instruments.

The Council takes part in the creation of policy and in taking and carrying into effect decisions in the following fields:

- 1) General and vocational education,
- 2) The culture and arts,
- 3) The use of the national community language,
- 4) Protection of human environment,
- 5) Local planning,
- 6) Directing the utility and housing policy of the local community,
- 7) The care of natural resources,
- 8) Economic development of the local community,
- 9) Development of health and welfare services in the local community,

- 10) Cooperation in the implementation and control of tax policy,
- 11) The promotion of tourism and transportation;
- 12) Organization of the judiciary and its activities in accordance with law;
- 13) Improvement of the local police staffing and its activities.
- 14) In the territory of a municipality or a city, a national community may have *only one* council.

III.4. National community Union. Councils of national communities may associate, at the level of the regional community and/or Kosovo into the national community union.

The national community union enjoys the status of a legal person, and is established and registered under the same conditions as other social organizations and associations of citizens.

A national community may have only one national community union at the level of Kosovo and the regional community respectively.

III.5. Regional cooperation. Taking into account that territorial and national issues in South-eastern Europe are closely interrelated, each having its local and regional repercussions, it is necessary to secure both to Albanians and Serbs the security of a free inter-Albanian and inter-Serbian cooperation and integration, respecting fully the existing state borders and guaranteeing the state territorial integrity.

Strategically, long-term development interests of Serbia and other countries of the Region are:

- 1) Elimination of domination of any expansionist authority and "great national" ambitions;
- 2) Control and marginalisation of destabilizing political and ethnic problems and conflicts that have been exhausting human and material resources of the Region for decades;
- 3) Making it easier, through the implementation of concrete projects within the Stability Pact and SECI, interregional integration and joining the EU through the process of stabilization and association. .
- 4) Short-term and medium-term interests of regional cooperation are the following:
- 5) Stabilization and democratisation of Kosovo and prevention of new conflicts.
- 6) Improvement in the status of national communities and protection of rights and freedoms of persons belonging to them, development of cultural, information and economic cooperation within a multiethnic society as a whole, within the framework of national communities, within the framework of ethnicities separated by state borders but also among different ethnicities of the Region;
- 7) Establishment of common standards as regards the citizenship, protection of human and minority rights;
- 8) Control of migratory movements, illicit work (for instance, by introducing boarder controls but at the same time more easier movement of persons that have labour based residence permits) and refugee status;

9) Suppression of terrorism and organized crime.

IV. REGIONAL COMMUNITY

IV.1. Regional community. Regional community is a community of municipalities as an institutional form of exercising the right to self-government. The right to the exercise of self-government is only a potential right, which is used by holders of the right if they want so and if they fulfil certain conditions that might derive from the Constitutional framework for provisional self-government in Kosovo. Regional communities are an instrument of integration and a basic form of protection against ethnic division of Kosovo and Metohija. *This would mean that regional self-organization is the right but not an obligation.*

The Framework or appropriate instruments determine the following issues: *who are holders of the right to regional self-organization, the procedure for the exercise of the right, competences and powers of the regional community, legal documents adopted by regional communities, bodies of regional communities, relations of the region with the central authority and financing of the region.*

Holders of the right to regional self-organization should be those neighbouring municipalities, i.e. citizens of those municipalities, which consider that due to interconnection resulting from economic, traffic, geographic, historical, cultural and traditional ties they can perform certain tasks more efficiently together rather than separately or through central government authorities. That means that holders of the right to regional organization are municipal communities.

Establishment, determination of the territory, definition of functions and other matters of relevance for a regional community shall be laid down by an act of the competent authority. The appropriate act of the competent authority would fix the minimum number of municipalities and/or population of municipalities that can form a region. The Framework or other appropriate act would provide for conditions and procedure for possible alteration of the region's borders.

IV.2. Competence of the regional community. *Appropriate acts of the competent authority lay down the competence of the central authorities and the competence of municipalities.* Other spheres of competence, the scope of competence and the kinds of powers that are specifically enumerated by the appropriate act fall within the sphere of competence of the regional community.

Taking into account different degrees of development of individual areas of Kosovo and different reasons for regional self-organization (cultural-historical reasons can override economic reasons and vice versa), future regional communities should have free hands in taking over from an offered catalogue the competences that suit them, they being determined by regions, individually, in their bylaws. Taking over of new competences from a list of possible ones shall be considered as adoption of a new bylaw and the whole

procedure for the enlargement of competences (or reduction) shall take place in the way that a bylaw is adopted.

An appropriate instrument of the competent authority determines in fact to what extent of self-organization regions can go. This is the way to achieve flexibility and diversity of types of regional communities.

The regional community would have competences in the following fields:

- 1) Determination of regional bodies and services;
- 2) Determination of sources of income;
- 3) Management of regional property;
- 4) Industry of regional importance;
- 5) Agriculture, cattle breeding and forestry;
- 6) Regional roads, bridges, river courses, hunting, fishing, land reclamation and irrigation;
- 7) Regional road, river and possibly railway traffic;
- 8) Regional planning and preparation of terrains;
- 9) Public works of regional importance;
- 10) Education and culture of regional importance;
- 11) Regional police, and
- 12) Regional, second-instance courts.

IV.3. Authority and legal enactments. Regional communities should have at their disposal normative, executive, administrative authority, with the possibility of having a judicial authority.

In the domain of their original (exclusive) legislative authority, legal enactments passed by a regional community shall be subject to the constitutional control by a special panel of the Supreme Court of Kosovo.

In the domain where the regions pass laws with a view to enforcing state laws (the situation where the central authority delegates the authority of regulating individual issues or where by way of framework laws accords the right to regulate a matter in more detail) such regional acts are subject to control of legality by the Constitutional Court of Kosovo.

In the domain where executive and administrative authority is delegated, central bodies retain the right of central control.

For all other instruments made by bodies of regional communities, usual procedures of judicial and other controls are applicable.

IV.4. Bodies of a regional community. Bodies of a regional community are the *assembly, government, and administrative bodies, with possibility of establishing*

courts. Regional communities may also establish other organs, bodies and committees that they need in the exercise of their authority.

a) *The assembly of a regional community* is elected by citizens having the right of vote in the territory of the region. The assembly of the region determines the procedure of election by law.

b) *Election of the government, administrative bodies, other organs and bodies*, along with their competences, are determined by law of the region.

Regions are obliged to adhere to basic principles of election of authorities laid down by the Framework and appropriate acts.

IV.5. Relations with bodies of the provisional self-government in Kosovo. Relations between a regional community and the central authority manifest in the following: a) participation of the regional community in bodies of the provisional self-government; b) the principle of unity and c) the principle of solidarity.

Forming of regional communities in the process of decentralization has to be in accord with the Constitutional framework. The same principle applies also to decentralization of legal sources. The Special Representative may make a special verification rule.

This is confirmed by the following solutions:

Statute of the region shall be approved by the Assembly of Kosovo, provided that until conditions are ripe for the Assembly of Kosovo as the self-government body to approve the statute this shall be done by the Special UN Representative for Kosovo;

The control of conformity of regional communities' statutes with provisions of the Constitutional framework shall be done by a special panel of the Supreme Court of Kosovo;

General regulations that fall within the exclusive competence of the region have to conform with acts of the competent authority and are subject to control of the special panel of the Supreme Court of Kosovo;

The subsidiarity principle: in the application of regulations, in case of the existence of both regional and central regulations, the regional regulations shall have precedence in application. However, in case there is a collision between the regulations of the regional and central authorities, the regulation of the central authority shall apply until a decision is taken by a special panel of the Supreme Court of Kosovo;

The legal status of citizens has to be regulated uniformly for the entire territory of Kosovo and no regional community can adopt regulations or its body carry out measures in the exercise of its powers that would limit freedoms and rights of citizens laid down in

the Framework or appropriate instruments, especially those freedoms that relate to the freedom of movement, taking up residence and employment, and property rights;

The procedure of harmonization of legal regulations of regional communities shall be initiated by passing a law that will prescribe necessary principles for harmonization of regulations of regional communities in the matters that fall within their competence. The necessity of harmonization shall be decided on by the Assembly of Kosovo by separate voting in both Houses, provided the absolute majority is obtained in both Houses;

Regions can regulate their mutual cooperation by an agreement;

Federalization of regional communities is not permitted in any case and all agreements on cooperation between the regions (other than those that relate to administration and operation of their own services) shall be subject to confirmation by the Assembly of Kosovo in the same manner as the harmonization procedure;

A regional community cannot exercise any of its rights to the detriment of another region;

The central authority enjoys the right of direct intervention aimed at the maintenance of the unity of the Provisional self-government in Kosovo and the unity of the legal order, protection of rights of other regional communities and the protection of common interests. The Assembly of Kosovo by absolute majority in both Houses shall take a decision on existence of such a necessity.

IV.6. Principle of solidarity. The principle of solidarity is a constitutional principle deriving from the principle of the unity of the state and the principle of equality and equity. The necessity to introduce the principle of solidarity results from the fact that parts of Kosovo have unequal level of development. In this way establishment of a regional community based on regional egoism shall be prevented. For the purpose of bringing this principle into effect, *a Fund for a balanced development of regions* and *a Council for general social and economic planning* should be instituted.

IV.7. Financing of regions. The Frameworks or appropriate instruments lay down own sources of financing of regional communities. Those would be those sources that are ceded to them, in part or in full, by the central authority, own sources of income, and the resources from the Fund for a balanced development. In regulation of the matter account should be taken of the regions not fixing their own sources of income by additional taxation of citizens because in such a case citizens would pay the cost of political autonomy.

IV.8. Regional communities would secure their participation in bodies of Provisional self-government in Kosovo through the *House of regional, national and local communities*.

V. CITY

V.1. City. City is a unit of local self-government representing a natural, urban and social whole with the *population of more than 10,000*. In addition to the narrow urban area, suburban areas making with the city such a natural and social whole connected by everyday needs of the population of local significance belong to the city.

V.2. Authority of the city. *The authority delegated* to the city would in principle coincide with authority of municipalities and the one specific and characteristic of urban environments may possibly enlarge it. Cities may also have tasks that are entrusted to them for performance by the municipality.

V.3. Bodies of the city. As regards the bodies, the *identical classification of bodies* as in municipalities would be retained: a) city government and b) city assembly.

The assembly would be bicameral under the same conditions as in the case of the municipal assembly; the same applies to participation of national communities in the city government.

VI. BICAMERAL ASSEMBLY OF KOSOVO

VI.1. Provisional self-government in Kosovo. This form of decentralization of functions and devolution of competences to local self-government as well as the necessity to promote multiethnic cooperation at the level of the Provisional local self-government in Kosovo, necessitates to think in perspective about introduction of a bicameral form of the Assembly of Kosovo, i.e. *the House of regional, national and local communities*.

VI.2. Bicameral assembly. *The Assembly of Kosovo would consist of two Houses:* a) the House of citizens and b) The House of local, national and regional communities.

VI.2.1. The House of citizens. All citizens would be represented in the House of citizens in accordance with the principle "one man – one vote" and this House would be of general jurisdiction, subject to a corrective principle established in the Constitutional framework,

VI.2.2. The House of local, national and regional communities. The House of local, national and regional communities would represent regional communities and would take part in decision-making only in certain cases. Members of the House of local, national and regional communities would be elected in two ways. One each representative from every region would be appointed from among the existing composition of assemblies in the region, while the others would be elected depending on the number of citizens that enjoy the right of vote in each region. The House of local, national and regional communities represents the second house that takes part in the proceedings of the Assembly of Kosovo with the right of decision-making in the matters that concern the status and authority of these communities.

VII. PREPARATION OF THE MODEL NORMATIVE ACT ON SELF-GOVERNMENT OF LOCAL, NATIONAL AND REGIONAL COMMUNITIES

VII. 1. Model normative act. Fundamentals of the strategy for decentralization and building of local self-government in Kosovo would serve as a basis for working out a model ("draft law") normative act on self-government of local, national and regional communities in Kosovo and Metohija. For the purpose, a special expert team of legal and other professionals would be set up, which would in a relatively short period of time devise the model.

VII.2. Expert debate. With a view to the implementation of the Strategy and initiation of the procedure for adoption of the model normative act, it is very useful to organize a number of expert discussions and public debates and to launch a campaign of lobbying for adoption of such a solution by all citizens in Kosovo and Metohija, and by persons belonging to individual national communities.

ANEX I

Regulation no. XY

UNMIK/REG/

Date DD.MM.YYYY.

REGULATION AMENDING THE REGULATION ON SELF-GOVERNMENT OF MUNICIPALITIES IN KOSOVO

The Special Representative of the Secretary General

Pursuant to the authority given to him under the United Nations Security Council Resolution 1244 (1999) of 10 June 1999, and the UNMIK Regulation no. 2001/9 on Constitutional Framework for Provisional Self – Government in Kosovo, and the UNMIK Regulation no. 2000-45 on Self Government of Municipalities in Kosovo of 11 August 2000,

Considering the need for:

- Stability in Kosovo and building of stable and credible social, political and legal institutions,

- Decentralization of „central“ government, introduction and strengthening of democratic institutions of local, sub-local and supra-local communities,
- Supporting efforts directed towards creation and maintaining of multi – ethnic, multi - cultural and multi – religious society, including achieved results in local elections of 2000 and elections for provisional institutions of self – government in Kosovo of 2001.

Affirming that establishing and strengthening of local democracy is a prerequisite for attaining these goals,

Promulgates:

AMENDMENTS TO THE UNMIK REGULATION ON SELF – GOVERNMENT OF MUNICIPALITIES IN KOSOVO NO. 2000/45

Amendment A – Decentralization

Section 1.

Decentralization

1.1. Decentralization of government in Kosovo represents a process of transfer of power from the central to local levels for the purpose of enhancing organizational and functional capacity of local democracy, especially the ability of local communities to establish institutions of local self-government, active participation of citizens in strengthening local community with simultaneous raising of their responsibility for invigoration of integration ties and stability of the society in Kosovo.

- 1.2. All actors in the process of decentralization are obliged to provide convincing security, administrative, economic and cultural guarantees to all citizens of Kosovo: Albanians, Serbs and all communities in Kosovo.

Section 2.

Legal Basis of Decentralization

2.1. In carrying out democratic decentralization in Kosovo, the basic foundation is the framework established by the United Nation Security Council Resolution 1244/99, articles 10 and 11 and the UNMIK Regulation no. 2001/9 on Constitutional Framework for Provisional Self – Government in Kosovo, chapters 1,2,4,5,8 and 12.

Section 3.

Democratic Self – Government of Local Communities

3.1. Government in Kosovo will be decentralized by establishing new institutions, such as local community, local (multiethnic) police, regional, city community and city, i.e. by additional building of the existing institutions, above all by introducing the second chamber in municipality assemblies and The Assembly of Kosovo.

Amendment B – Local Community

Section 1.

Democratic Self – Government of Local Communities

1.1. Democratic self – government is by peaceful and democratic means established, conforming to geographic, economic, demographic, cultural, historical and ethnic characteristics, administrative and territorial organization of Kosovo.

1.2. The basic units of local self – government are:

- a) Local community, and
- b) Municipality.

Section 2.

Local Community

2.1. Local community is the unit of local democracy and self – government in Kosovo.

2.2. Local community is the form of direct participation of citizens in decision – making on local matters.

2.3. Local Community is established for a settlement, a number of connected small settlements or for a part of a larger settlement that, in relation to other parts, make up a separately bordered smaller entity (e.g. a hamlet in rural or a quarter in urban areas).

2.4. An initiative for establishment of a local community can be taken up by:

- a. Assembly of citizens,
- b. Citizens' organizations and associations, including chambers and councils of communities as well as the parliament of communities¹,
- c. Municipality assemblies, and
- d. Provisional institutions of self – government in Kosovo.

The procedure and other conditions for establishment of a local community shall be determined by the SRSG.

2.5. The assembly of citizens is a form of direct participation of citizens in decision making. At the assembly of citizens, mutual interests of citizens are determined and the elections for members of the council of the local community, in the manner and according to the previously established procedure at the public meeting, take place, in cooperation with the SRSG and provisional institutions of self – government in Kosovo are performed.

2.6. Bodies of the local community are: the local community council and the local Office. The by-law of a local community may also establish other local community bodies.

1. The local community council is the executive body of the local community and it performs tasks entrusted to it by the assembly of citizens.
2. Local office is the operational body of the local community

2.7. Competences of the local community council are as follows:

1. Convening the assembly of citizens when it deems necessary for the purpose of determining direct interests of citizens;
2. Supervising the work of the Local Office;
3. Laying out financial plans and statements on outlays;
4. Other issues that are not within the sphere of competence of municipalities but citizens find them to be in their interest. These competences are laid down in the by-laws of the local community.

2.8. The local community council elects a chief of the Local Office from among its members. The chief of the Local Office runs it, represents and acts on behalf of the Local Office in relations with citizens and bodies of provisional self – government in Kosovo, and with other persons and legal entities.

2.9. Local community enjoys the status of a legal entity.

2.10. Provisional institutions of self – government in Kosovo and municipalities may entrust affairs from their own jurisdiction, which have a direct or regular bearing on the life and work of citizens, to the local community.

2.11. Funds for entrusted affairs are provided for in the municipality budget or in the budget of provisional institutions of self – government in Kosovo.

¹ The terminology in this section must be brought in line with the translation of the Regulation on Minorities!!!

2.12. In local communities where members of the communities make the majority or more than 25% of the population, SRSG, provisional institutions of self – government in Kosovo or municipalities may, permanently or temporary, as measures of affirmative action, transfer affairs which are of importance for preservation and development of the identity of communities.

2.13. Financial means of the local community are the means that municipalities transfer to the local community, the means that citizens provide through self-contribution or in other ways, as well as gifts and other means. The local community uses these means in accordance with its plans and programs determined at the Assembly of Citizens.

Amendment C – Additional protection of the rights of communities in the municipality

Section 1.

Bicameral Municipality Assemblies

1.1. In municipalities where more than 6% of population are members of more than one community municipality assembly comprises two chambers:

1. Chamber of Citizens
2. Chamber of Local Communities.

1.2. All affairs of importance for direct participation of citizens in the decision making on local matters and for preservation and development of communities fall within the authority of the local communities' council, and in particular:

1. General and vocational education;
2. The culture and arts;
3. The use of the community language;
4. Public information in community languages;
5. Environment protection;
6. Local planning;
7. Directing the utilities and housing policies of the local community;
8. Development of health and welfare services in the local community;
9. Cooperation in planning, collecting and spending funds of the local budget, especially determining the kind and amount of contributions;
10. Improvement of the local, multiethnic police staffing and its activities.

1.3 In municipalities where the share of communities amounts to 1 – 6% of the population, Committee for Communities shall be established, which will play a consultative role in matters referred to in 1.2.

Section 2.

Appropriate Representation of Communities

2.1. Municipal bodies are obliged to ensure adequate representation of communities in municipality government, administration, public enterprises and institutions.

2.2. Municipal bodies are obliged to consult appropriate municipality Chambers of Local Communities in affairs of significance for the exercise of freedoms and rights of members of communities, especially in case of appointments to school and other boards, public enterprises and institutions.

Amendment D – Local Police

Section 1.

Local Police

1.1. For the purpose of maintaining public order and peace in the territory of municipality, the local police, comprised of inhabitants of Kosovo, i.e. citizens of the Republic of Serbia, shall be established.

1.2. The local police perform tasks of interest for the local community, especially: maintains public order and peace, communal order (utilities), is engaged in regulation of local traffic, protection against fire and security of property and buildings.

Amendment E – Regional and City Community

Section 1.

Regional (city) community

1.1. Regional community is the community of municipalities as an institutional form of the exercise of the right to self – government.

1.2 The right to the exercise of self – government is a potential right used by its holders if they want to and if they fulfill conditions deriving from the Constitutional Framework for Provisional Self – Government in Kosovo.

1.3. Regional communities are an instrument of integration for the purpose of protection against ethnic divisions of Kosovo and they represent **the right but not the obligation**.

1.4. The procedure for forming a region can be initiated by municipal assemblies (community of municipalities), after having raised the question on referendums in each municipality separately. In order to have a successful referendum, at least 51% of the total number of citizens in each municipality enjoying the right to vote has to cast a positive vote.

1.5. Upon the fulfillment of previous conditions, a statutory commission shall be formed, consisting of representatives of all municipal assemblies, and it shall draw up the proposal of the statute of the Region. That proposal must be adopted by two-thirds majority of representatives in each municipality.

1.6. The Statute adopted in such a manner shall be subjected to a referendum of citizens of each municipality separately. If the statute is to be adopted, at least 51% of the total number of voters in each municipality has to vote in favor of it.

1.7. If all this has not achieved in 12 months' time from the day of the initiative, the right to initiate the proceedings again shall be acquired after the elapse of 3 years.

1.8. In case some of the assemblies reject to approve the Statute or its citizens do not accept the proposed statute at the referendum, other municipalities shall not be deprived of the exercise of their right to regional organizing.

1.9. The Statute of regional community shall be approved by the Kosovo Assembly with two-thirds majority of representatives within 6 months from the date of submission.

1.10. The Kosovo Assembly may reject to approve the Statute if it violates provisions on regional organization contained in the Constitutional Framework for Provisional Institutions of Self – Government in Kosovo UNMIK 2001-9, or constitutional provisions establishing basic principles, and principles and organization of government.

1.11. In case the Kosovo Assembly rejects the Statute, it shall turn the statute to the community of municipalities back stating the reasons for rejection.

1.12. In case the community of municipalities in each municipal assembly separately sticks to its decision, the question at issue shall be brought before the Constitutional Court of Kosovo, which is obliged to make a decision within 6 months.

1.13. Holders of the right to regional self-organization are neighboring municipalities, i.e. citizens of those municipalities, which consider that due to interconnection resulting from economic, traffic, geographic, historical, cultural and traditional ties they can perform certain tasks more efficiently together rather than separately or through central government authorities.

Section 2.

Competence of the regional community

2.1. General competences of the regional community

2.2. The SRSG, consulting the Kosovo Assembly, shall issue a regulation that specifically enumerates areas, the scope and forms of the authority that falls within the sphere of competence of the regional community.

2.3. In special cases, bearing in mind different levels of development of individual parts of Kosovo, as well as cultural-historical, economic and other reasons, it can be left to the regional community to take over in its statute from the offered list those competences that suit it.

2.4. Individual competences of the regional community are as follows:

1. Establishing regional bodies and services;
2. Establishing the sources of income;
3. Management of regional property;
4. Industry of regional significance;
5. Agriculture, cattle breeding and forestry;
6. Regional roads, bridges, river courses, hunting, fishing, land reclamation and irrigation;
7. Regional road, river and possibly train traffic;
8. Regional planning and land space architecture;
9. Public works of regional significance;
10. Health service of regional significance;
11. Education and culture of regional significance;
12. Regional police;
13. Regional, second instance courts.

Section 3.

Authority and legal enactments

3.1. Regional communities have normative, executive and administrative authority, with the possibility of having a judicial authority.

3.2. In the domain of their original (exclusive) legislative authority, legal enactments passed by regional community shall be subject to the constitutional control by a special panel of the Supreme Court of Kosovo.

3.3. In the domain in which the central authority delegates the authority of regulating individual issues or where by way of framework laws accords the right to regulate a matter in more detail, the regional community shall pass laws. Such regional laws shall be subject to the control of legality by the Constitutional Court of Kosovo.

3.4. In the domain where executive and administrative authority is delegated, central bodies retain the right of central control.

3.5. For all other instruments made by the bodies of regional communities, usual procedures of judicial and other controls are applicable.

Section 4.

Regional Community Bodies

4.1. Regional community bodies are: assembly, government, and administration, with the possibility of forming courts. The communities may also establish other organs, bodies and committees that they need in the exercise of their authority.

4.2. Citizens having the right of vote in the territory of the region elect the assembly of a regional community. The assembly of the region determines the procedure for election by law.

4.3. The election of government, administrative bodies, other organs and bodies, along with their competences, shall be determined by the regional law.

4.4. In a regional community in which more than 6% of the population is members of more than one community, the Assembly shall have two chambers:

1. Chamber of citizens
2. Chamber of municipalities

4.5. The law on elections for assembly of regional communities shall provide for adequate representation in the Chamber of Citizens, as well as adequate representation of municipalities and local communities in which members of communities comprise the majority or more than 25% of the population.

4.6. The election of government, administrative organs and other organs and bodies, along with their competences, shall be determined by the regional community law.

Section 5.

Relations with Provisional Institutions of Self - Government in Kosovo

5.1. Basic principles of relation between regional communities and provisional institutions of self – government in Kosovo are:

1. The Kosovo Assembly shall approve the statute of the region. By the time conditions are met for the Kosovo Assembly, as a body of self-government, to approve the statute, this shall be the responsibility of the SRSG for Kosovo;
2. A special panel of the Supreme Court of Kosovo shall perform control of the conformity of the statute of regional communities with provisions of the Constitutional Framework for Provisional Self – Government in Kosovo.
3. General enactments (regulations), which are within the exclusive jurisdiction of the region have to be in accord with enactments of the competent authority and shall be subject to the control of a special panel of the Supreme Court of Kosovo;
4. The subsidiarity principle in enforcing regulations: in case of the existence of both regional and central regulations, the regional regulations shall have precedence in application. However, in case of a collision between the regulations of regional and central governments, the regulation of the central government shall be enforced until a decision is taken by a special panel of the Supreme Court of Kosovo;
5. The legal position of citizens has to be uniformly regulated for the entire territory of Kosovo and no regional community can issue regulation, nor can its organ undertake measures in the exercise of its authority which would limit freedoms and rights of citizens established by the Framework, or

corresponding acts, and especially those freedoms and rights pertaining to the freedom of movement, residence and employment, and property rights;

6. The procedure for harmonization of legal regulations of regional communities shall be established by passing laws that will determine necessary principles for harmonizing regulations of regional communities in the matter falling within their jurisdiction. The necessity of applying the procedure of harmonization shall be determined by the Kosovo Assembly, by a vote taken in both chambers separately, under the proviso that the absolute majority is obtained in both Chambers;
7. Regions may regulate their mutual cooperation by an agreement;
8. Federalization of regional communities shall not be permitted in any case and all agreements on cooperation between the regions (other than those pertaining to administration and operation of their own services) shall be subject to confirmation by the Kosovo Assembly in the same manner as the procedure of harmonization.
9. A regional community cannot exercise any of its rights to the detriment of another region;
10. The central government enjoys the right of direct intervention for the purpose of preserving the unity of the provisional self-government in Kosovo and uniformity of legal order, protection of the rights of other regional communities and protection of common interests. The Assembly of Kosovo shall take a decision on existence of such a necessity by absolute majority in both chambers.

5.2. The relations between regional community and provisional institutions of self - government in Kosovo are particularly manifested in the following:

- a) Participation of the regional community in provisional institutions of self – government in Kosovo;
- b) The principle of uniformity;
- c) The principle of solidarity.

5.3. The forming of regional communities in the process of decentralization has to be in accord with the Constitutional Framework for Provisional Self – Government in Kosovo. The principle also applies to the decentralization of legal sources.

Section 6.

Financing of regional communities

6.1. The sources of financing needs of regional communities shall be determined by the regulation of the SRSG or appropriate law of the Kosovo Assembly and by the law of regional community.

6.2. For the needs of financing regional communities, the central government, in part or in whole, relinquishes its own sources of income.

6.3. Regional communities secure, through the chamber of local communities in the Kosovo Assembly, their participation in exercising the authority by the provisional institutions of self – government in Kosovo.

Section 7.

City

7.1. The city is a unit of local self – government representing a natural, urban, social entity, and having more than 10.000 inhabitants.

7.2. In addition to the narrow urban area, suburban areas making with the city a natural and social entity connected by everyday needs of the population of local significance can be included in the city.

Section 8.

Authority of the city

8.1. Cities, which form a community of two or more municipalities (city community of municipalities), shall have the same status and competences as a regional community.

8.2. The procedure for forming a city community is the same as the procedure for forming a regional community.

8.3. Pristina and Mitrovica shall be reorganized into the city community of two or more municipalities, with special regard to the needs of protection of rights and interests of communities. The SRSG shall determine the rules of reorganization of Pristina and Mitrovica and see to the implementation of these rules.

Section 9.

City bodies

9.1. Bodies of the city are the following:

- City assembly, and
- City government

9.2. The representation of communities in managing town affairs shall be implemented under the same conditions as in municipal bodies and in local multiethnic police of municipalities.

ANEX II

Regulation no. XY

UNMIK/REG/

Date DD.MM.YYYY.

REGULATION AMENDING THE UNMIK REGULATION ON CONSTITUTIONAL FRAMEWORK FOR PROVISIONAL SELF- GOVERNMENT IN KOSOVO, NO. 2001-9

Special Representative of the Secretary General

Pursuant to the authority given to him under the United Nations Security Council Resolution 1244 (1999) of 10 June 1999, and the UNMIK Regulation no. 2001/9 on Constitutional Framework for Provisional Self – Government in Kosovo, and the UNMIK Regulation no. 2000-45 on Self Government of Municipalities in Kosovo of 11 August 2000,

Considering the need for:

- Stability in Kosovo and building of stable and credible social, political and legal institutions,
- Decentralization of „central“ government, introduction and strengthening of democratic institutions of local, sub-local and supra-local communities,
- Supporting efforts directed towards creation and maintaining of multi – ethnic, multi - cultural and multi – religious society, including achieved results in local elections of 2000 and elections for provisional institutions of self – government in Kosovo of 2001.

Affirming that establishing and strengthening of local democracy is a prerequisite for attaining these goals,

Promulgates:

AMENDMENTS TO THE UNMIK REGULATION ON CONSTITUTIONAL FRAMEWORK FOR PROVISIONAL SELF-GOVERNMENT IN KOSOVO NO. 2001-9.

Amendment A – Decentralization

Section 1.

Decentralization

1.3. Decentralization of government in Kosovo represents a process of transfer of power from the central to local levels for the purpose of enhancing organizational and functional capacity of local democracy, especially the ability of local communities to establish institutions of local self-government, active participation of citizens in

strengthening local community with simultaneous raising of their responsibility for invigoration of integration ties and stability of the society in Kosovo.

- 1.4. All actors in the process of decentralization are obliged to provide convincing security, administrative, economic and cultural guarantees to all citizens of Kosovo: Albanians, Serbs and all communities in Kosovo.

Section 2.

Legal Basis for Decentralization

2.1. In carrying out democratic decentralization in Kosovo, the basic foundation is the framework established by the United Nation Security Council Resolution 1244/99, articles 10 and 11 and the UNMIK Regulation no. 2001/9 on Constitutional Framework for Provisional Self – Government in Kosovo, chapters 1,2,4,5,8 and 12.

Chapter 3.

Democratic Self – Government of Local Communities

3.1. The Government in Kosovo will be decentralized by establishing new institutions, such as local community, local (multiethnic) police, regional, city community and city, i.e. by additional building of existing institutions, above all by introducing the second chamber in municipal assemblies and the Assembly of Kosovo.

Amendment B- Local Community

Section 1

Local Community

1.1. Local community is the unit of local democracy and self – government in Kosovo.

1.2. Local community is a form of direct participation of citizens in decision – making on local matters. Assembly of Citizens determines mutual interests of citizens and elects members of the Council of Local Community, according to the previously established procedure at the Assembly of Citizens, and in cooperation with the SRSG and Provisional Institutions of Self – Government in Kosovo.

1.5. Local community is established for a settlement, a number of connected small settlements or for a part of a larger settlement, which, in relation to other parts, make up a separately bordered smaller entity (e.g. a hamlet in rural or a quarter in urban areas).

Amendment C – Additional Protection of the Rights of Communities in the Municipality

Section 1.

Bicameral Municipality Assembly

1.1. In municipalities where more than 6% of population are members of more than one community municipality assembly comprises two chambers:

1. Chamber of Citizens
2. Chamber of Local Communities.

Amendment D – Local Police

Section 1.

Local Police

1.1. For the purpose of maintaining public order and peace, local police shall be established for the area of municipality, comprised of inhabitants of Kosovo, i.e. citizens of the Republic of Serbia.

1.2. Local police performs tasks of interest for the local community, and especially maintains public order and peace and communal order (utilities), is engaged in regulation of local traffic, protection against fire and security of property and buildings.

Amendment E – Regional and City Community

Section 1.

Regional (city) community

1.1. Regional community is the community of municipalities as institutional form of exercising the right to self – government.

1.2 The right to the exercise of self – government is a potential right, which is used by its holders if they want to and if they fulfill conditions deriving from the Constitutional Framework for Provisional Self – Government in Kosovo.

1.3. Regional communities are an instrument of integration for the purpose of protection against ethnic divisions of Kosovo and they represent **the right, but not the obligation**.

1.4. Cities that form a community of two or more municipalities (city community of municipalities) have the same status and jurisdictions as a regional community.

1.5. The procedure for forming a city community is the same as the procedure for forming a regional community.

1.6. Pristina and Mitrovica are being reorganized into the city community of two or more municipalities, with special regard to the needs of protection of rights and interests of

communities. The SRSB determines the rules of reorganization of Pristina and Mitrovica and sees to the implementation of these rules.

Amendment F – Bicameralism of the Kosovo Assembly as an expression and affirmation of decentralization and democratization as well as the protection of communities in Kosovo.

Section 1.

The Structure of the Kosovo Assembly

- 1.1. The Kosovo Assembly has two chambers:
 - a. Chamber of Citizens
 - b. Chamber of Local Communities
- 1.2. All citizens are represented in the Chamber of Citizens in accordance with the principle “one man – one vote”, subject to a corrective principle established by the Constitutional Framework for Provisional Self – Government in Kosovo.
- 1.3. The Chamber of Local Communities is comprised of representatives of local communities i.e. municipalities as well as of those local communities in which members of the minority comprise the majority or more than 25% of the population.
- 1.4. Members of the Chamber of Local Communities are elected in such a manner that one each representative from each municipality or local community is designated, at the proposal of the SRSB and in agreement with the Government of Kosovo, from among the existing composition of municipality assemblies or council of local communities.
- 1.5. The Chamber of Local Communities represents the second chamber participating in the work of the Kosovo Assembly with the right of decision-making in issues pertaining to the status and powers of these communities.

ANEX III

Regulation no. XY

UNMIK/REG/

Date DD.MM.YYYY.

REGULATION ON INSTITUTIONS AND PROCEDURES FOR THE EXERCISE OF THE RIGHT TO SELF-ORGANIZATION OF COMMUNITIES AND PERSONS BELONGING TO THEM IN KOSOVO

The Special Representative of the Secretary-General

Pursuant to the authority given to him by the UN Security Council Resolution 1244/ 99 and the *UNMIK Regulation No. 2001/9 on constitutional framework for provisional self-government in Kosovo*,

Taking into account developments in the establishment of provisional self-government institutions in local elections of 2000 and general elections of 2001 along with the necessity to provide full protection of and respect for rights of all the communities, and

Considering

- That communities are an integral part of a multiethnic society and an active factor of ethnic, religious, cultural and linguistic pluralism in Kosovo, that an effective participation of the Serbian community in public life represents an essential part of the peaceful and democratic society of Kosovo, and that provisional self-government institutions in Kosovo are obliged to respect internationally recognized human rights and the rule of law as well as to create conditions and institutions the operation of which ensures effective participation of communities in public life of Kosovo,

- That it is necessary to support and encourage efforts aimed at maintaining multi-ethnic, multi-cultural and multi-religious character of the society, to make it possible for all the citizens in Kosovo free development, expression and protection of national and ethnic specificity, without any discrimination whatsoever based on national or ethnic belonging and without any form of forced assimilation, to make provision for full development of Kosovo as an open society of tolerance, cooperation, peace and progress, to strengthen peace and security of Kosovo and the entire Region,

Promulgates

REGULATION ON INSTITUTIONS AND PROCEDURES FOR THE EXERCISE OF THE RIGHT TO SELF-ORGANIZATION OF COMMUNITIES AND PERSONS BELONGING TO THEM IN KOSOVO

Section 1.

Subject of the Decree

1.1. The Decree on Institutions and Procedures for the Exercise of the Right to Self-Organization of Communities in Kosovo (hereinafter referred to as: the Decree) shall regulate freedoms and rights and their exercise, preservation and protection.

Section 2.

Legal Basis

2.1. The Decree shall provide for the protection and ensure the exercise of rights and freedoms of all citizens, especially the right to national specificity of the Serbian and other communities, as an integral part of a multiethnic society in Kosovo, at the level of the highest standards of the present-day international community, particularly of those contained in the following documents:

- The Charter of the United Nations;
- The Universal Declaration of Human Rights (1948),
- International Covenants on Human Rights (1966);
- The International Convention on the Elimination of all Forms of Racial Discrimination (1966);
- The UNESCO Convention against Discrimination in Education (1960);
- The UN Convention on the Rights of the Child (1989);
- The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992);
- The European Council Framework Convention on the Rights of National Minorities (1994);
- The European Charter on Regional and Minority Languages (1992);
- The Final Act of the Conference on Security and Cooperation in Europe, Helsinki (1975);
- The Final Act of the Madrid Summit (1983);
- The Final Act of the Vienna Summit (1989);
- The Second Copenhagen Conference Document on the Human Dimension, CSCE (1990);
- The Paris Charter on a New Europe (1990);
- The Helsinki Document (1992);
- Other relevant OSCE documents, and
- Especially chapters 3, 4 and 12 of the Constitutional Framework for Provisional Self-Government in Kosovo.

Section 3.

The Right to Self-Organization

3.1 The community shall have the right to self-organization with a view to the exercise of the rights laid down in the Constitutional Framework and the present Decree.

3.2 In the exercise of rights referred to in 3.1, the community shall have the right to organize its self-government.

3.3 Ways, forms and scope of the exercise of the right to self-organization shall be provided for in the Decree and shall be, as the case may be, elaborated on in more detail, in conformity with the Decree, in by-laws of provisional institutions of self-government and local self-government bodies.

Section 4.

Forms of organization of communities' self-government

4.1 The basic forms of self-government organization of communities are the following:

1. The community council, and
2. The community union

4.2. Provisions referred to in paragraph 4. 1 do not exclude establishment of some other forms of self-government organization that communities decide on.

4.3. The community council and community union shall be established for the purpose of enabling vertical and horizontal linking of persons belonging to communities and of self-governments of communities, and with a view to decentralization of democratic power and implementation of self-government accepted in the *UN Security Council Resolution 1244 (1999)* and *chapter 4. of the Constitutional framework for provisional self-government in Kosovo*.

4.4. The community council and community union shall be established with a view to heightening importance of civil society and making it possible for citizens – persons belonging to a community to exercise their rights and enjoy their freedoms.

Section 5.

Democratic elections for self-government bodies of the communities

5.1. Institutions of self-organization and communities' self-government shall be established on the basis of democratic elections of citizens, persons belonging to the communities concerned.

5.2. Elections carried out in every community shall be supervised by the OSCE. In these elections, representatives of communities shall be elected for community bodies acting within the framework of competences specified in chapter 4 of the *Constitutional*

framework for provisional self-government in Kosovo, and in other areas of relevance to the attainment of the following objectives:

1. The right to self-organization;
2. The right to official use of the mother tongue;
3. The right to use the national flag and other symbols;
4. System of education, culture, information and sports, taking into account values and needs of the community concerned;
5. Proportionate representation on the command staff in professional military and police units, and in other public services;
6. The right to collect a self-contribution for the purpose of self-financing, along with the right to financial aid from the Kosovo budget;
7. The right to regional and international cooperation.

Section 6.

Community Council

6.1. Communities shall establish community councils, as public bodies of communities' self-government, for the territory of a local community, municipality or city.

6.2. The Council shall enjoy the status of a *legal person* and it shall be established and registered under the same conditions as other social organizations and associations of citizens.

6.3. The Council shall adopt its own *bylaws* that, in accordance with the *Constitutional framework for provisional self-government in Kosovo*, relevant standard setting or other documents, shall specify, inter alia, the following:

1. The name, seat and symbol of the council;
2. The authority of the council and the manner of its functioning, in accordance with provisions of the Decree
3. Organization of the council (forms, composition and powers of the main and auxiliary bodies, and of working bodies);
4. The manner of election to all the bodies;
5. Ways of financing the council and management of resources and material goods;
6. Organization, financing and the mode of work of educational, cultural and other institutions established by the council,
7. Other matters (local community holidays, recognitions granted by the community council, etc.).

6.4. The competence of the Council shall be to represent the community and to elect and organize election of representatives of communities in the bodies provided for by law or relevant instruments.

6.5. The Council shall take part in the creation of policy and in taking and carrying into effect decisions in the following fields:

1. General and vocational education;
2. The culture and arts;
3. The use of the community language;
4. Protection of human environment;
5. Local planning;
6. Directing the utilities and housing policies of the local community;
7. The care of natural resources;
8. Development of health and welfare services in the local community;
9. Cooperation in the implementation and control of tax policy, especially collecting and spending budgetary resources as well as determining the kind and amount of contributions referred to in section 5, par. 5.3, sub. par. 7 of the Decree;
10. The promotion of tourism and transportation;
11. Seeing to the organization of the judiciary and its functioning in accordance with law;
12. Improvement of the local multiethnic police staffing and its activities.

6.6. In the territory of a municipality or a city, a community may have **only one** council.

Section 7.

Community Union

7.1 Councils of one and the same community may associate, at the level of Kosovo or the regional community, into the community union (hereinafter referred to as: the union).

7.2 The union shall enjoy the status of a **legal person**, and shall be established and registered under the same conditions as other social organizations and associations of citizens.

7.3 A community may have only one community union at the level of Kosovo and the regional community respectively.

7.4 Solutions applicable to community councils shall apply accordingly to unions, as laid down in section 6. of the Decree. .

Section 8.

Parliament of communities

8.1. Parliament of communities (hereinafter referred to as: the parliament) represents a form of ad hoc or permanent free association of persons belonging to two or more communities for the purpose of exercising freedoms and rights guaranteed by the Decree.

8.2. For the territory of a local community, municipality, city, region and Kosovo, communities' parliaments consisting of persons belonging to various communities in either individual capacity or as representatives of councils or unions of various communities in the area concerned (local community, municipality, city, regional community) may be established.

8.3 All communities living in Kosovo shall be represented, through their representatives, in the communities' parliament at the level of Kosovo. Representatives of every community shall be elected, according to election rules that they adopt by themselves and following the procedure organized by themselves, by Kosovo unions of the relevant communities and in the absence thereof – regional unions. In case the Kosovo or regional union has not been established, the existing councils, following the procedure and manner established by the councils, shall elect representatives of the community concerned

8.4. Representatives of communities in the city or municipal parliament shall be elected in the manner and following the procedure established and organized by communities' councils that are associated into the parliament.

8.5. The parliament shall have the status of a legal person.

8.6. The parliament by-law shall stipulate, in conformity with the Decree, organization of the parliament, its authority and manner of operation, financing, allocation of funds and other matters relevant to the functioning of the parliament.

8.7. In case the parliament ceases to exist for any reason provided for by law, its property shall belong to the Fund referred to in Section 10. of the Decree.

8.8. Only one parliament of communities may exist at the level of a municipality, city, regional community or Kosovo. .

Section 9.

Relationship between provisional self-government institutions and local self-government bodies, and self-government of communities

9.1. Provisional self-government institutions and bodies of local self-government in Kosovo shall be obliged to request an opinion of the minority self-government body (as the case may be, the parliament, union or council) on issues of territorial and political division or when they are deciding on delimitation and change of borders between municipalities, determination of election units, preparation and adoption of development plans and environment plans, and other issues of importance for the realization and protection of rights of the community concerned in a given area.

9.2 Provisional self-government institutions and local self-government bodies in Kosovo shall be obliged to consider the opinion of the minorities' self-government referred to in 9.1 in good time and to explain their position in writing.

9.3. Communities' self-governments shall have the right to apply, on their own initiative, to provisional self-government institutions and local bodies or their heads in order to:

- Request information on all issues of relevance for the status of the community and persons belonging to it;

- Submit their proposals with explanations, including the ones for adopting or amending relevant regulations, for solution of certain personnel issues, for taking other concrete measures, and
- Criticize individual decisions and habitual practice of the functioning of some bodies, institutions and organizations that violate freedoms and rights of communities and persons belonging to them.

9.4. The competent body or its head shall be obliged to give an answer to the request referred to in the preceding paragraph within 30 days.

9.5. If a particular case is not within the sphere of competence of the body concerned (its head), it shall forward the request to the competent body within three days.

9.6. The communities' parliament and the community union shall have the right to take up an initiative with regard to the pursuance of government policy on the protection of freedoms and rights of communities and persons belonging to them, and the right to initiate and submit proposals for amending appropriate legal and other provisions.

Section 10.

Fund for Encouraging Creativity of Communities

10.1. The Assembly of Kosovo shall establish, in support of activities of relevance for maintenance of ethnic specificities of communities and persons belonging to them in the fields of culture, creative work, information, etc., a fund for encouragement of creativity of communities (hereinafter referred to as: the Fund).

10.2. The Fund shall particularly support social, cultural, educational and scientific projects and institutions preparing experts and programs relevant to the preservation and development of communities, and to inter-ethnic cooperation.

10.3. Funds necessary for the operation of the Fund shall be provided for in the budget of Kosovo to the amount of at least 1% of the total budgetary resources.

10.4. The decree on establishment of the Fund shall ensure appropriate representation of communities' representatives in the Fund management.

Section 11.

Punishable Actions

11.1. Any action aiming at or endangering the survival of a community, inciting national or ethnic hatred and intolerance, conducive to discrimination or inequality of a community or a person belonging to it shall be prohibited and punishable.

11.2. Types of criminal and other punishable offences referred to in paragraph 11.1 and penalties therefore shall be laid down by law.

Section 12.

Entry of the Decree into Force

12.1. The Decree shall come into effect ten days after its publication, and it shall apply after the expiration of 30 days from its entry into force.

12.2. From the day of its entry into force, provisions of other legal enactments that are contrary to the Decree shall not apply.

Section 13.

The Procedure for Amending the Decree

13.1. The Special Representative of the Secretary-General may, on his own initiative or upon a request supported by two-thirds of members of the Assembly of Kosovo, amend the Decree.

13.2. The parliament of communities and union of communities at the level of Kosovo as well as the ombudsman of Kosovo can also submit a proposal to the Special Representative of the Secretary-General to amend the Decree.

Section 14.

Supervision over the Enforcement of the Decree

14.1. The obligation to carry the Decree into effect shall especially lie with provisional self-government institutions, while the obligation and right of supervision over the Decree enforcement shall lie with the Special Representative of the Secretary-General. .

Section 15.

Public Availability of the Decree

15.1. The Special Representative of the Secretary-General shall see to it that the Decree and other enactments passed on the basis of the Decree shall be made public, in the authentic translation, in the English, Albanian, Serbian and other languages of the communities living in Kosovo on the day of their publication.

Signed, on _____ October 2002.

The Special Representative
of the Secretary-General