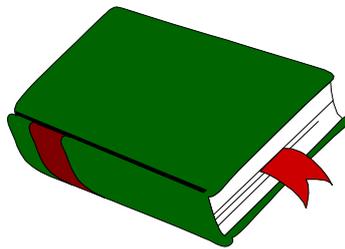




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Department for Legal Affairs



CONSTITUTION OF POSAVINA CANTON

“Official Gazette of Posavina Canton”, 1/96, 3/96, 5/98,

NOTE:

- 1. Amendments on the Constitution of Posavina Canton, published in the “Official Gazette of Posavina Canton”, 7/99, 3/00, 5/00 and 7/04 are not included in this translation.**
- 2. By the Sentence of the Constitutional Court of the Federation of Bosnia and Herzegovina, U-12/97 published in the “Official Gazette of Posavina Canton”, 5/98, and in the “Official Gazette of the Federation of Bosnia and Herzegovina”, 24/98, provisions of Articles 8, 9, 10 and 30. of the Constitution of Posavina Canton are not in accordance with the Constitution of the Federation of Bosnia and Herzegovina.**

ASSEMBLY OF POSAVINA CANTON

Based on Article 77 of the Posavina Canton Constitution ("People's Gazette of Posavina Canton No.1/96"), the Interim Assembly of the Posavina Canton, at the constituting session held on 10 April 1996. passes the

DECISION ON PROCLAMATION OF THE CONSTITUTION OF POSAVINA CANTON

Article 1.

Hereby is proclaimed the Constitution of the Posavina Canton. adopted by the Interim Assembly of the Posavina Canton at the session held on 10 April 1996.

Article 2.

The Constitution of the Posavina Canton shall enter into force on the day of its adoption.

Bosnia and Herzegovina
FEDERATION OF BOSNIA AND HERZEGOVINA
POSAVINA CANTON
ASSEMBLY

Based on Article V.6 (a), and in the connection with Article IX.3 (4.) of the Constitution of the Federation of Bosnia and Herzegovina ("Official Gazette Federation Bosnia and Herzegovina") of Orasje, 10 April 1996, the Interim Assembly of the Posavina Canton, at its session held on 10 April 1996, adopted

No: 01-1-9/96
PRESIDENT
Mato Madzarevic

CONSTITUTION OF POSAVINA CANTON*

1. ESTABLISHMENT OF CANTON

Article 1.

The Posavina Canton (hereinafter: the Canton) is a federal unit of the Federation of Bosnia and Herzegovina (hereinafter: the Federation).

Article 2.

The Croats and Bosniaks as the constituent peoples in the Federation, together with other citizens of the Canton, shall exercise their sovereign rights in the Federation and in the Canton, in accordance with the Federation Constitution and this Constitution.

Article 3.

The composition of all the government bodies in the Canton and in the Municipalities of the Canton shall have to reflect the national structure of the population of the Canton, or of the municipality, unless stipulated otherwise by the Federation Constitution.

Article 4.

The official name of the Canton shall be: POSAVINA CANTON.

Article 5.

The seat of the Canton shall be Orasje.

Article 6.

The territory of the Canton shall encompass the municipalities of:

- a. Odzak;
- b. Orasje;
- c. Brcko;
- d. Bosanski Brod;
- e. Bosanski Samac

The precise boundaries of the Canton shall be determined subsequently by a separate Federation regulation.

Article 7.

The Canton shall have a coat-of-arms, a flag and a seal, as well as other symbols decided on by the Cantonal Assembly.

The Canton symbols from Paragraph 1 of this Article shall be used along with the Federation symbols, in accordance with the Federation and Canton laws.

¹ *By sentence of Constitutional Court of Bosnia and Herzegovina No. U-12/97 from 19.11.1997. and 20.2.1998. ("Federation Official Gazette" No. 24/98) was fixed that article 8,9,10 and 30. of the Constitution is not in accordance with Constitution of the Federation of Bosnia and Herzegovina.¹

Article 8.

The Canton coat-of-arms shall be the historical Croatian coat-of-arms in the form of a stylized shield, divided horizontally and vertically into 25 red and white fields squares, the first field in the upper left corner of the stylized shield being red. Above the stylized shield is a three-stand interlacery decoration laid horizontally on the shield above the three central fields.

The ratio between the height of the three-stand interlacery decoration and the height of a square field is 1:1, and the ratio between the length of the three-stand interlacery decoration and the length of a square field is 3:1

Article 9.

The flag of the Canton shall consist of three colours: red, white and blue, with the Canton coat-of-arms in the centre.

The ratio of the width and the length of the flag is 1:2. The colours of the flag are laid horizontally in this order, from the upper end: red, white and blue. Each colour makes up one-third of the width of the flag, and the lower end of the coat-of-arms (with the height of one square field) enters into the blue field of the flag. The central point of the coat-of-arms is also the point where the diagonals of the flag cross.

Article 10.

The official languages of the Canton are Croatian and Bosniak. The official alphabet is Latin.

The other languages may be used as means of communication and teaching, in accordance with the law.

Article 11.

The Canton may together with the other Cantons with majority Croat population, for a Council of Cantons, with a view to harmonization of policy and activities in issues of common interest for the Cantons.

With a view to more efficient performance of duties within the scope of activities of the Canton, the Canton may, together with other Cantons, form a common body, in accordance with a separate agreement.

A. II. HUMAN RIGHTS AND BASIC FREEDOM

Article 12.

While exercising its competencies, the Canton shall:

- a. Take all the necessary measures in protection of human rights and freedoms stipulated by the Federation Constitution and foreseen in the instruments in the Annex to the Federation Constitution, and act in accordance with the Federation Constitution and this Constitution;

- b. exercise its competencies taking into account the national structure of the population in each municipality.

Article 13.

In particular, the Canton shall take measures for exercising the right of all refugees and displaced persons to free return to their homes, from which they were expelled, to retrieval of all property confiscated during the ethnic expulsion, as well as to compensation for all property which cannot be retrieved.

The rights from Paragraph 1 of this Article shall be exercised in accordance with the Federation and Canton regulations.

Article 14.

The Canton shall ensure cooperation of all the Canton government bodies and municipalities in the Canton.

III. COMPETENCIES OF CANTONAL GOVERNMENT

Article 15.

The Canton shall have the competencies, which are not explicitly assigned to the Federation authorities by the Constitution, and mainly for:

- a. decision-making, within the framework of the defined economic policy, with a view to inciting economic and social development;
- b. funding of the activities of the cantonal Government or activities under its sponsorship, by imposing taxes, loans or other means;
- c. establishment and supervision over the police force, which has common federal uniforms with the Canton insignia;
- d. definition of education policy, including adoption of regulations on education, and provision of the education;
- e. definition and implementation of cultural policy;
- f. definition of housing policy, including adoption of regulations on arrangement and construction of housing facilities;
- g. definition of policy regarding regulation and provision of public services;
- h. adoption of regulations on use of local land, including definitions of zones;
- i. adoption of regulations on local activities and welfare activities and their improvement;
- j. adoption of regulations on local facilities for production of electricity and ensuring their accessibility;
- k. definition of policy regarding establishment of radio and TV stations, including adoption of regulations on their work;
- l. implementation of social welfare policy and establishment of social welfare services;
- m. definition and implementation of policy of cantonal tourism, development of tourist resources.

Article 16.

The competencies from Article 111.2. of the Federation Constitution may be exercised jointly or separately, or by the Canton in coordination with the Federation government, in accordance with the provisions of the Federation Constitution and the law.

Article 17.

The Canton may, in accordance with the Federation Constitution, transfer by law part of its competencies onto the municipalities in its territories or onto the Federation Government.

IV. ORGANIZATION OF CANTONAL GOVERNMENT

A. CANTONAL LEGISLATIVE GOVERNMENT

Article 18.

The legislative Government of the Canton shall be performed by the Assembly. The Cantonal Assembly shall have one house.

Article 19.

The Cantonal Assembly (hereinafter: the Assembly) shall consist of 30 deputies. The election regulations shall ensure representation of all municipalities in the Assembly.

Article 20.

The deputies to the Assembly shall be elected for a two-year period.

Article 21.

The deputies to the Assembly shall be elected by voters in democratic and direct elections, by secret vote in the whole territory of the Canton, in accordance with the Federation Constitution and the law. All voters may cast one secret vote for any of the registered parties.

All registered parties shall be obliged to publicize the list of their candidates before the elections.

The deputies elected to the Assembly from each side shall be the person from the head of the parties' lists, according to the number of votes they won.

As replacements of deputies shall be nominated the persons whose names follow on the list.

All citizens having the right of vote may be elected as deputies to the Assembly.

The Assembly shall be convened for the first time not later than 10 days after the publication of the election results.

Article 22.

The Assembly shall have a Speaker and Deputy Speaker, who shall be elected from amongst the deputies in the Assembly.

Article 23.

The Assembly shall adopt its Rules of Procedure.

Article 24.

The Assembly shall be in session publicly, except under exceptional circumstances foreseen by the Rules of Procedure of the Assembly and shall publish reports on sessions and decisions.

Article 25.

Delegates to the Assembly shall neither be prosecuted nor held responsible in a civic proceedings for actions carried out in performance of their duties.

Any delegate shall neither be taken into custody or arrested by any body of Federal or Cantonal authorities without the Assembly's approval.

Article 26.

The Assembly shall:

- a. prepare and adopt the Cantonal Constitution,
- b. elect a governor,
- c. elect the judges of the Cantonal Court,
- d. define authorities of the Cantonal and municipal courts,
- e. pass the laws and other regulations necessary for performance of the Cantonal authorities,
- f. adopt the budget of the Canton and pass the laws on taxation and ensure needed financing in another way,
- g. approve conclusion of international agreements with countries and international organizations, with the Assembly's consent,
- h. pass Rules of Procedure of the Assembly,
- i. elect speaker and deputy speaker of the Assembly, and other officials in accordance with the law,
- j. approve appointment of the Cantonal Government,
- k. elect delegates of the Canton to the House of Peoples of the Federation Parliament from among delegates of the Assembly, in accordance with the Constitution of the Federation,
- l. carry out investigation and with that purpose may request collection of evidence in the form of personal documents and statements of the witnesses, not involving into the competence of judicial authority,
- m. carry out other duties within its scope of activities.

Article 27.

By two-third majority the Assembly shall:

- a. prepare and adopt the Constitution of the Canton,
- b. pass the Law on Transfer of Cantonal Authorities to the Municipal and Federal Authority,
- c. relieve the Governor of his post.

Article 28.

Other decisions from its scope of activities shall be made by majority, vote of the delegates to the Assembly

Article 29.

The Cantonal regulations shall enter into force as stipulated by, them, but not before their publishing in the Cantonal Official Gazette.

B.EXECUTIVE AUTHORITY OF THE CANTON

Article 30.

The Canton shall have a Governor.

Article 31.

Delegates to the Assembly shall by majority of votes elect the Governor from among the candidates they propose and in the manner foreseen in the Rules of Procedure of the Assembly.

Article 32.

If the Governor has been elected from among the delegates in the Assembly, his/her man- date of a delegate shall cease.

Article 33.

The Governor has two-years long mandate and may riot be elected twice consecutively.

Article 34.

The Assembly may replace the Governor by two-third majority votes of the delegates in the Assembly.

Article 35.

If the Governor's post is vacant the Assembly shall elect the Governor within 30 days.

If the Governor is temporary unable to carry out his/her duty, the Speaker of the Assembly shall carry out the Governor's function.

Article 36.

The Governor shall be responsible for:

- a. appointment of the Cantonal Government,
- b. signing the laws of the Cantonal Assembly,
- c. proposing the judges to the Cantonal Court,
- d. signing the international agreements on behalf of the Assembly,
- e. granting amnesty for actions defined by the Cantonal laws, except for war crimes and crimes against humanity and genocide,
- f. considering the reports of Ombudspersons and providing conditions for their work,
- g. taking care of realization of cooperation with bodies of the Federation, Including insurance of implementation of the decisions of the Cantonal Courts and courts of the Federation,
- h. implementation of politics and fulfillment of the regulations of the Canton including insurance of implementation of the decisions of the Cantonal Courts and courts of the Federation,
- i. performance of other duties assigned by the Assembly

GOVERNMENT OF THE CANTON

Article 37.

The Government of the Canton shall consist of a Prime Minister, Deputy Prime Ministers and ministers (hereinafter: members of the Government).

Composition of the Government shall reflect national composition of the Cantonal population.

Article 38.

Members of the Government shall be appointed by the Governor, and appointment shall be approved by the Assembly by majority of votes of the delegates in the Assembly.

Article 39.

The Government may be replaced by a decision of the Governor or by vote of no confidence to the Government in the Assembly by majority, of votes of the delegates in the Assembly.

The Governor relieves the ministers and their delegates upon the proposal of the Prime Minister.

Article 40.

Organization of the Government shall be defined by separate law in line with the Constitution.

Article 41.

The Government shall be responsible for:

- a. implementation of the cantonal politic, inspection and implementation of the cantonal laws and other regulations,
- b. preparation of proposals of the Cantonal Budget,
- c. ensuring the cooperation with Ombudspersons,
- d. supervision over investigation and prosecution with regard to violation of the cantonal laws, as well as supervision over the cantonal police,
- e. ensuring national structure of the police, so that it reflects national structure of the population in the Canton, provided that the national structure of the police of each municipality must reflect national structure of the population in the respective municipality,
- f. performance of other competencies defined by this Constitution and other regulations.

Article 42.

The Government shall be authorized to pass decrees under exceptional circumstances and when the Assembly is unable to act.

Regulation passed in accordance with Paragraph 1 of this Article shall cease to be valid as soon as the conditions due to which the Assembly was unable to act cease to exist, and at latest 60 days after its publishing in the Cantonal Official Gazette.

Article 43.

Governor, Prime Minister and Deputy Prime Minister and ministers may neither be prosecuted nor hold responsible in civic proceedings for any actions carried out in performance of their duties.

C. JUDICIAL AUTHORITY OF THE CANTON

Article 44.

Judicial function in the Canton shall be performed by the Cantonal Court and municipal courts.

Article 45.

Judicial authority, in the Canton shall be independent and earned out on the basis of the Constitution and law of the Federation and Canton.

Article 46.

The courts in the Canton shall provide equal position to all parties in the court proceedings.

Article 47.

All court proceedings shall be public unless stipulated otherwise for exceptional situations.

All verdicts shall be publicly published.

Article 48.

The Cantonal court shall be established by the Law of the Canton.

Article 49.

Competence of the court mentioned in Article 44 of this Constitution shall be defined by a separate law.

Article 50.

Decision of the Cantonal Court passed against the decision of municipal courts shall be final and obligatory.

Article 51.

Judges of the Cantonal Court shall be proposed by the Governor from among eminent lawyers, and elected by the Assembly, provided that the national structure of judiciary completely reflects national structure of the Cantonal population.

Article 52.

Judges of the Cantonal Court and municipal courts shall be in service until the age of 70 unless they resign or be replaced, as follows:

- a. judges of the Cantonal Court by consensus of the judges of the Supreme Court of the Federation,
- b. judges of municipal courts by consensus of the Cantonal Court's judges.

Service conditions shall be defined by a separate law of the Canton.

Their salaries and other incomes shall not be reduced during their service at the Cantonal or municipal court.

Article 53.

The Cantonal Court shall elect a president in accordance with the law.

Article 54.

All judges of the Cantonal and municipal shall be eminent lawyers with highest moral characteristics.

Judges of the Cantonal and municipal courts shall neither be prosecuted nor hold responsible in a civic proceedings for any action carried out in performance of their functions.

V. MUNICIPAL AUTHORITY

1. GENERAL PROVISIONS

Article 55.

In realization of its rights each municipality shall:

- a. undertake all needed measures of protection of human rights and freedoms specified in the Constitution of the Federation and foreseen in the instruments in Annex of the Constitution of the Federation and act in accordance with the Constitution of the Federation, this Constitution and municipal statute.
- b. perform its duties taking care of the national structure of the population in the respective municipality

Article 56.

In the municipality local self-government shall be exercised and duties stipulated by this Constitution and those transferred on them by the Canton or the Federation shall be performed. Local self-government shall be exercised by performance of competencies stipulated by this Constitution, Cantonal law and municipal statute. In particular, in the municipality:

- a. financial and other conditions for life and work and for meeting financial and common needs shall be realized and developed, in accordance with defined politics and regulations of the Canton and Federation,
- b. roads, waterline and other infrastructure of the local importance shall be built and maintained,
- c. measures for ensuring hygiene and health shall be undertaken,
- d. municipality, shall manage the public property of local importance,
- e. regulations on taxation shall be made and municipality shall otherwise ensure needed financing, not provided by the Cantonal or Federal authority,
- f. regulations for performance of municipal competencies shall be passed,
- g. general conditions for providing supplies for the citizens and providing the services.

Article 57.

The municipality shall have its statute.

Statute and other regulations of the municipality shall have to be in line with the Constitution of the Federation, this Constitution and cantonal legislation.

Article 58.

Each municipality shall have municipal council.

Article 59.

A number of members of the Municipal Council shall be determined by the Municipal Statute, provided that the Council can not have less than 9 and more than 15 members.

Article 60.

The term of the office of the members of the Municipal Council shall be 2 years, and the term of the office of the first members of the Municipal Council shall be one year.

Article 61.

Voters on the entire territory of the municipality shall, in a democratic manner, elect the Municipal Council by direct and secret elections. Every voter has the right to vote for any registered political party and the right to be elected for a councilor. Every political party shall receive a number of councilors' seats, which shall be proportional to the percentage of received votes.

Article 62.

The Municipal Council shall be responsible for:

- a. preparation and passing of the Municipal Statute, which shall be passed by two third of votes of the councilors of the Municipal Council
- b. organize election of the President of the Municipal Council
- c. election and discharge of the Mayor
- d. passing of the municipal budget and passing of regulations on taxation, and providing of the financing, in a different manner, which has riot been provided by the Cantonal and Federal authorities
- e. passing of the Rules of Procedure on its work
- f. passing of other regulations in the execution of municipal authorizations.

Article 63.

Sessions of the Municipal Council shall be public, except in extraordinary cases which are foreseen by the Rules of Procedure. The Municipal Council shall keep the minutes on discussions and passed decisions.

Article 64.

Municipal regulations shall enter into force in a manner described in the regulations, but not before their publication in the Official Gazette of the municipality.

Article 65.

Procedure and election of the President of the Municipal Council and the Mayor shall be determined by the Statute of the Municipality.

3. Mayor

Article 66.

Each municipality shall have a Mayor.

Article 67.

The Mayor shall be elected by the Municipal Council.

Closer provisions which shall determine regulations on election of the Mayor shall be pre- scribed by the Statute of the Municipality.

Article 68.

Functions of the Mayor and the Municipal Council shall be incompatible.

Article 69.

The Mayor is responsible for:

- a. appointing and discharging of the municipal officials
- b. implementation of the municipal policy, implementation of municipal regulations and responsibilities which have been transferred to the municipality from the Cantonal or Federal authorities
- c. ensuring of the cooperation between the municipal officials and Ombudsmen
- d. submitting of a report on the implementation of municipal policy and his/hers activities to the Municipal Council and to the public
- e. consultations regarding the election of judges of the Municipal Court
- f. preparation of proposals which shall be considered by the Municipal Council, and
- g. carrying out of other authorizations determined by the Law and the Statute of the Municipality.

4. Municipal Courts

Article 70.

Municipal Courts shall be founded by the Law of the Canton.
Financing of the Municipal Courts shall be done from the budget of the Canton.

Article 71.

A Municipal Court shall be founded for the area of the municipality.
One Municipal Court may be founded for the area of two or more municipalities.

Article 72.

Municipal Courts shall have original Jurisdiction over all civil and criminal cases, except if a part of the original jurisdiction has been transferred to some other Court by the Constitution of the Federation, this Constitution, the Federation Law or the Law of the Canton.

Article 73.

Following the consultations with the Mayor, the President of the Cantonal Court shall appoint judges of the Municipal Courts.

Article 74.

Each Municipal Court shall elect the President of that Court in compliance with the Law.

VI Amendments to the Cantonal Constitution

Article 75.

Amendments to the Cantonal Constitution can be proposed by the Governor of the Canton, the Government of the Canton and majority of the representatives in the Assembly.

An amendment proposed to the Cantonal Constitution shall not be finally considered before the 2 weeks deadline since its first submission expires.

The proposed amendment shall be adopted by the two third majority of the representatives in the Assembly.

Article 76.

Any amendment to the Cantonal Constitution can not abolish or reduce any, of the rights and freedoms determined by the Constitution of the Federation and instruments foreseen in the Annex to the Constitution of the Federation.

VII Passing and Entering into Force of the Cantonal Constitution

I Interim Solutions

Article 77.

In the interim period the Cantonal Constitution shall be adopted and proclaimed by the Assembly, which is composed of S representatives of each Municipal Assembly. These representatives shall be elected among representatives of each municipal Assembly who were elected during the elections in 1991 and whose mandate is still valid.

In the interim period the Constitution shall be adopted by the two third majority of the representatives in the Cantonal Assembly and shall enter into force on the day of its passing.

Article 78.

All Laws, regulations and judicial rules which are enforced in the Federation as well as regulations of the Croat Republic of Herzeg-Bosnia, if not in contravention to this Constitution and Laws of the Federation, shall be applied until passing of the Law and other Cantonal regulations.

Article 79.

In the interim period the Cantonal Assembly shall:

- a. pass Cantonal Constitution
- b. elect the Governor and the Cantonal Government in the interim period

Article 80.

According to this Constitution, until the first convocation of the Cantonal Assembly its functions shall be carried out by the Cantonal Assembly in the interim period.

Article 81.

In the interim period the Governor may carry out the duties of the President of the Government.

If the Cantonal Assembly in the interim period decides that the Governor shall carry out the duty of the President of the Government, the Cantonal Assembly in the interim period shall elect the Government upon a proposal of the Governor as a mandatory for the composition of the Government.

Article 82.

All persons who perform the state function in the Canton on a day on which this Constitution enters into force shall stay on that function until they are relieved of their duty according to the respective law, or until the abolishing of that function.

Article 83.

Representatives of each Municipal Assembly who were elected in 1991 and whose mandate is still valid shall, within the shortest possible period of time, elect municipal authorities in the interim period in according to the Constitution of the Federation and this Constitution.

Article 84.

Any person sentenced for war crimes or if criminal charges for committed war crimes were raised against a person can not be elected for any public function within the Canton.

Article 85.

Published results of the Census of 1991 shall be used in calculations, which require data on the population.

Article 86.

This Constitution shall enter into force on the day of its passing and shall be published in the "Official Gazette of the Posavina Canton.

Bosnia and Herzegovina
FEDERATION OF BOSNIA AND HERZEGOVINA
POSAVINA CANTON
ASSEMBLY

No: 01-1-9/96
Orasje, 10 April 1996.
PRESIDENT

Mato Madzarevic, personally

On basis of Article 36, paragraph 1, item b of the Constitution of Posavina Canton ("Official Gazette of Posavina Canton"), no 1/96) I pass

after: members of the Government) as a whole, shall be responsible to the Cantonal Assembly.

ASSEMBLY OF POSAVINA CANTON

On basis of Article 77 of the Constitution of the Posavina Canton ("Narodne Novine of the Posavina Canton", no 1/96) and Article 24, paragraph I and 2 of the Interim Rules of Procedure of the Assembly of the Posavina Canton ("Narodne Novine of the Posavina Canton ", no 1/96) the Assembly of the Posavina Canton passes

DECISION ON PROCLAIMING OF AMENDMENTS TO CONSTITUTION OF POSAVINA CANTON

I

We proclaim the Amendment to the Constitution of the Posavina Canton which was passed by the Assembly of Posavina Canton on its session held on 23 November 1996.

II

This Decision shall enter into force on the day of its passing and shall be published in the "Narodne Novine of the Posavina Canton".

Bosnia and Herzegovina
FEDERATION OF BOSNIA AND HERZEGOATINA
POSAVINA CANTON
ASSEMBLY
No: 01-1-12/96
Orasje, 23 November 1996.

PRESIDENT
Mato Madzarevic, personally

ASSEMBLY OF POSAVINA CANTON

On basis of Article 75, paragraph 3 of the Constitution of the Posavina Canton ("Narodne Novine of the Posavina Canton", no 1/96) the Cantonal Assembly of the Posavina Canton at its session held on 23 November 1996, passed

AMENDMENT TO THE CONSTITUTION OF POSAVINA CANTON

Article I.

In the Constitution of the Posavina Canton (Narodne Novine of the Posavina Canton", no 1/96) Article 59 is changed and reads:

"The Municipal Council shall be composed of 15 to 30 members, and an exact number shall be determined by the Statute of the Posavina Canton".

Article 2.

This Amendment shall enter into force after its publication in the "Narodne Novine of the Posavina Canton".

Bosnia and Herzegovina
FEDERATION OF BOSNIA AND HERZEGOVINA
POSAVINA CANTON
ASSEMBLY

No: 01-1-1 2/96
Orasje, 23 November 1996

PRESIDENT
Mato Madzarevic, personally