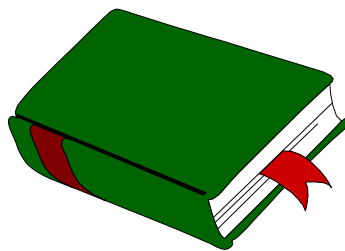




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# **CONSTITUTION OF CANTON 10**

**“Official Gazette of Canton 10”, 3/96**

**NOTE: Amendments on the Constitution of Canton 10, published in the “Official Gazette of Canton 10”, 9/00, 9/04 and 10/05 are not included in this translation.**

# **CONSTITUTION OF THE HERZEG-BOSNIA CANTON\***

**(amended text)**

## **I - ESTABLISHMENT OF THE CANTON**

### **Article 1.**

The Herzeg-Bosnia Canton (hereinafter referred to as: the Canton) is the federal unit of Federation of Bosnia and Herzegovina (hereinafter referred to as: Federation).

### **Article 2.**

The Croats and the Bosniacs as the constitutive nations of Federation of BH, together with others, and the citizens of the Canton, shall exercise their sovereign rights in Federation and the Canton in accordance with the Constitution of Federation and this Constitution.

### **Article 3.**

The composition of all the bodies of authority in the Canton and in the municipalities of the Canton must express the national structure of the population of the Canton, that is, the municipality, unless otherwise provided in the Constitution of Federation.

### **Article 4.**

The official name of the Canton is THE HERZEG-BOSNIA CANTON.

### **Article 5.**

Seat of the Canton:

- a. Seat of the Canton and the Prefect of the Canton is in Kupres,
- b. Seat of the Parliament of the Canton, its bodies and expert service units is in Tomislavgrad,
- c. Seat of the Government of the Canton is in Livno.

### **Article 6.**

The territory of the Canton comprises, either fully or partially, the territories of the present municipalities as follows:

1. Bosansko Grahovo,
2. Glamoc,
3. Livno,
4. Tomislavgrad,
5. Kupres,
6. Drvar.

The border of the Canton shall be regulated in a separate law.

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\* By sentence of Constitutional Court of Bosnia and Herzegovina No. U - 11/97 from 20.11. 1997 and 19. 02. 1998 ("Federation Official Gazette" No. 24/98) was fixed that Article 4. 8. 9. and 78. of the Constitutional is not in accordance with Constitution of the Federation of Bosnia and Herzegovina.

#### **Article 7.**

The Canton has its coat of arms, flag, and seal, as well as other insignia as determined by the Parliament of the Canton.

The insignia of the Canton from paragraph I of this article shall be used along with the insignia of Federation, in accordance with the laws of Federation and the Canton.

#### **Article 8.**

The coat of arms of the Canton is the historical Croatian coat of arms in the shape of a styled shield, separated horizontally and vertically into twenty-five red and white fields - squares, so that the first field in the upper left corner of the styled shield is red. Above the styled shield, there is a triple braid horizontally laid on the shield above the three middle fields.

The proportion between the height of the triple braid and the height of the square field is 1: 1, and the proportion of the length of the triple braid and the length of the square field is 3: 1.

The coat of arms is bordered with a gold line.

#### **Article 9.**

The flag of the Canton consists of three colors: red, white and blue, with the coat of arms of the Canton in the middle.

The proportion of the width and the length of the flag is 1: 2. The colors of the flag are distributed horizontally in the following order beginning from the top: red, white and blue. Each color makes one third of the width of the flag. The coat of arms of the Canton is placed in the middle of the flag, so that the upper part of the coat of arms (triple braid) extends itself into the red field of the flag, and the lower part of the coat of arms (for a height of one square field) extends itself into the blue field of the flag. The middle point of the coat of arms is identical with the point in which the diagonal lines of the flag cross each other.

#### **Article 10.**

The official languages of the Canton are the Croatian and the Bosniac languages.

The official alphabet is Latin.

Other languages may be used as an instrument of communication and for lecturing in accordance with the law.

#### **Article 11.**

Together with the other cantons with the Croat population majority, the Canton may establish the Cantonal Council aiming at coordination of policy and activities in issues of common concern for those cantons.

For the purpose of a more efficient operation from the scope of responsibility of the Canton, the Canton may, together with other cantons, establish a joint body in accordance with a separate agreement.

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

#### **Article 12.**

In exercising its authority, the Canton shall:

- a. undertake all the necessary measures for protection of human rights and freedoms as determined in the Constitution of Federation and envisaged in the instruments in the Annex to the Constitution of Federation and proceed in accordance with the Constitution of Federation and this Constitution.
- b. exercise its powers of authority, taking into account the national structure of the population in each municipality.

#### **Article 13.**

The Canton shall particularly undertake all measures to ensure the exercise of rights of all refugees and displaced persons related to free return to the homes of their origin and residence from which they were expelled, related to return of all the property confiscated in the course of ethnic cleansing, as well as the compensation for all the property which can not be returned.

The rights from paragraph I of this article shall be exercised in accordance with the federal and cantonal regulations.

#### **Article 14.**

The Canton shall ensure the cooperation between all the bodies of authority of the Canton and the municipalities in its composition and the ombudsmen.

### **III. - POWERS OF THE CANTONAL AUTHORITIES**

#### **Article 15.**

The Canton has all the powers not explicitly vested with the federal authorities in the Constitution of Federation, particularly to proceed as follows:

- a. to render decisions, within the framework of the determined economic policy, in order to support the economic and social growth,
- b. to finance the activity of the cantonal authorities or the activity under their auspices by taxation, borrowing or other manners,
- c. to establish and supervise of police forces, which have single federal uniforms with the insignia of the Canton,
- d. to determine the education policy, including bringing regulations related to education, and to ensure the provision of education,
- e. to determine the housing policy, including bringing regulations pertaining to the rehabilitation and building of the housing stock,
- f. to determine the policy related to the regulation and ensuring the work of public services,
- g. to issue the regulations pertaining to the use of local land, including zone making,
- h. to issue the regulations pertaining to local jobs and charity activities and their improvement,
- i. to issue the regulations on the local energy production facilities and to ensure their accessibility,
- j. to determine the policy related to ensuring the operations of radio and TV stations, including issuing the regulations on the ensuring of their work and activity,
- k. to implement the social policy and to establish the social services,
- l. to implement and apply the policy of the cantonal tourism, to develop tourist resources.

#### **Article 16.**

The powers from article III.2. of the Constitution of Federation may be exercised jointly or separately, or by the Canton with coordination with the federal authorities, in accordance with the provisions of the Constitution of Federation and of the law.

#### **Article 17.**

In accordance to the Constitution of the Federation, the Canton may legally transfer a part of its powers onto the municipalities within its territory or onto the federal authorities.

### **IV. - ORGANIZATION OF THE CANTONAL AUTHORITIES**

#### **a) Legislative authority of the Canton**

#### **Article 18.**

The legislative authority of the Canton shall be exercised by the Parliament of the Canton (hereinafter referred to as: the Parliament).

The Parliament of the Canton consists of one house.

The election rules shall ensure the participation of each municipality in the Parliament.

#### **Article 19.**

The Parliament consists of 30 representatives.

#### **Article 20.**

The representatives for the Parliament are elected for a two-year period.

#### **Article 21.**

The representatives for the Parliament shall be elected by the voters at democratic and direct elections by secret ballot on the whole territory of the Canton, in accordance with the Constitution of Federation and the law.

Each voter may cast one secret vote to any one of the registered political parties.

Before the elections, each registered party must publicize the list of its candidates.

The elected representatives for the Parliament from each party are the persons heading those parties, according to the number of votes received. The representatives may be replaced by the persons following on the top of the rest of the list.

Each voter who has the right to vote may be elected representative for the Parliament. The Parliament shall be first convened no later than ten days after the publication of the results of the elections.

#### **Article 22.**

The Parliament has a president and two vice-presidents elected from among the representatives in the Parliament.

#### **Article 23.**

The Parliament shall issue its Procedural Rules.

#### **Article 24.**

The sessions of the Parliament shall be public, except under extraordinary circumstances envisaged in the Procedural Rules of the Parliament, and the Parliament shall issue reports on its sessions and decisions.

#### **Article 25.**

The representatives in the Parliament shall not be criminally prosecuted nor liable in a civil proceeding for the actions undertaken in the performance of their duty.

No representative shall be put to custody or arrested by any body of the federal or cantonal authorities without the approval of the Parliament.

#### **Article 26.**

The Parliament shall:

- a. prepare and adopt the Constitution of the Parliament,
- b. elect the Prefect of the Canton,
- c. elect the judges of the court of the Canton,
- d. determine the competency of the Cantonal and the municipal courts,
- e. issue laws and other regulations necessary for the exercise of the powers of the Canton,
- f. adopt the budget of the Canton and issue laws on taxation and ensure the necessary financing in other manners,
- g. approve the conclusion of international agreements with states and international organizations, with the agreement of the Parliament of Federation,
- h. issue the Procedural Rules of the Parliament,
- i. elect the president and the deputy president of the Parliament, and other officials in accordance with the law,
- j. approve the appointing of the Government of the Canton,
- k. elect the representatives of the Canton for the House of Peoples of the Parliament of Federation from among the representatives of the Parliament, in accordance with the Constitution of Federation,
- l. conduct investigations, and for that purpose it may require the obtaining of evidence in the form of documents and statements of witnesses, not interfering with the competency of the judicial authorities,
- m. perform other jobs from its scope of responsibility.

#### **Article 27.**

The two-third majority of the Parliament shall:

- a. prepare and adopt the Constitution of the Canton,
- b. bring the law on the transfer of the powers of the Canton onto the municipal or federal authorities,
- c. discharge the Prefect of the Canton from duty.

#### **Article 28.**

The Parliament shall bring other decisions from its scope of authority with an over-half majority of votes of the representatives in the Parliament.

#### **Article 29.**

The regulations of the Canton shall come into effect as it is provided in them, but not prior to being publicized in the official bulletin of the Canton.

## **b) Executive Authority of the Canton**

### **Article 30.**

The Canton has the Prefect of the Canton.

### **Article 31.**

The Prefect of the Canton is elected with majority of votes by the representatives of the Parliament from among the candidates they propose, in the manner provided in the Procedural Rules of the Parliament.

### **Article 32.**

Once the Prefect of the Canton is elected from among the representatives of the Parliament, his representative mandate shall terminate.

### **Article 33.**

The Prefect of the Canton has a two-year mandate and may not be elected more than twice in a row.

### **Article 34.**

If the position of the Prefect of the Canton becomes vacated, the Parliament shall elect a new Prefect of the Canton within 30 days.

In case that the Prefect of the Canton is temporarily prevented from performing his duty, the President of the Canton shall also perform the function of the Prefect of the Canton.

### **Article 35.**

The Prefect of the Canton shall be responsible for:

- a. appointing of the Government,
- b. signing of the Law of the Parliament of the Canton,
- c. proposing of judges for the cantonal courts,
- d. signing of international agreements on behalf of the Canton,
- e. granting pardon for crimes determined in the laws of the Canton, excluding war criminals and crimes against humanity and crimes of genocide,
- f. reviewing the reports of ombudsmen and ensuring the conditions for their work,
- g. ensuring the cooperation with the Federation authorities,
- h. implementing the policy and application of the regulations of the Canton, including ensuring of the implementation of the decisions of the cantonal courts and the courts of Federation,
- i. performing other tasks as assigned to him by the Parliament.

### **Article 36.**

If the Parliament so decides, the Prefect of the Canton may also act in the capacity of the Prime Minister.

## **2) The Government of the Canton**

### **Article 37.**

The Government of the Canton consists of the Prime Minister, Deputy, Prime Minister and the Ministers.

The composition of the Government shall express the national composition of the population of the Canton.

### **Article 38.**

The Prime Minister, the Deputy Prime Minister and the Ministers are appointed by the Prefect of the Canton, and the appointment is approved by the Parliament with the majority of votes of the representatives in the Parliament.

### **Article 39.**

The Government may be dismissed in the decision of the Prefect of the Canton or by voting distrust into the Government by the Parliament with the majority of votes of the representatives in the Parliament.

The Prefect of the Canton shall dismiss Ministers and their deputies at the proposal of the Prime Minister.

### **Article 40.**

The organization of the Government shall be regulated in a separate law in accordance with the Constitution.

### **Article 41.**

The Government shall be responsible for:

- a. implementation of the cantonal policy, for proposing and execution of the cantonal laws and other regulations,
- b. preparation of the preliminary budget,
- c. ensuring the cooperation between the Government of the Canton and the ombudsmen,
- d. supervision over the investigation and the criminal prosecution related to the violation of the cantonal laws, as well as for the supervision over the cantonal police,
- e. ensuring that the national structure of the police expresses the national structure of the population of the Canton, where the national structure of the police of each municipality must express the national structure of the population of that municipality,
- f. exercise of other powers as determined in this Constitution and other regulations.



#### **Article 42.**

The Government has the power to issue decrees with legal force under extraordinary circumstances and when the Parliament is not able to act.

The regulation brought in accordance with paragraph 1 of this article shall cease from being in effect once the circumstances due to which the Parliament was not able to act cease, and no later than 60 days from its publication in the official bulletin of the Canton.

#### **Article 43.**

The Prefect of the Canton, the Prime Minister, the Deputy Prime Ministers and the Ministers may not be criminally prosecuted, nor be responsible in civil proceedings for any action they undertake in performing their duties.

### **c) Judicial Authority of the Canton**

#### **Article 44.**

The judicial function in the Canton shall be performed by the cantonal and the municipal courts.

#### **Article 45.**

The judicial authorities in the Canton are independent and shall execute their power based on the Constitution and the laws of Federation and the Canton.

#### **Article 46.**

The courts in the Canton shall ensure equal position to all the parties in the judicial proceedings.

#### **Article 47.**

All judicial actions shall be public, unless otherwise provided in the law for some extraordinary situations.

All verdicts shall be pronounced in public.

#### **Article 48.**

The cantonal courts shall be established based on the law of the Canton.

#### **Article 49.**

The competency of the courts from article 44 of this Constitution shall be determined in a separate law.

#### **Article 50.**

The decisions of the cantonal courts rendered per appeals and the decisions of the municipal courts are final and mandatory.

#### **Article 51.**

The judges of the cantonal court shall be proposed by the Prefect of the Canton from among prominent lawyers, and shall be elected by the Parliament, whereby the national composition of the judiciary as a whole shall express the national structure of the population of the Canton.

#### **Article 52.**

The judges of the cantonal and the municipal courts shall be in service until they reach the age of 70, unless they give their resignation or are dismissed, as follows:

- a. the judges of the cantonal court by the consensus of the judges of the Supreme Court of Federation,
- b. the judges of the municipal courts by the consensus of the judges of the cantonal court.

The terms of service shall be determined in a separate law of the Canton.

Their salaries and other fees shall not be reduced during their service at the cantonal or the municipal courts.

#### **Article 53.**

The cantonal courts shall elect the presiding judge of the court in accordance with the law.

#### **Article 54.**

All the judges of the cantonal and the municipal courts shall be prominent lawyers of the highest moral qualities.

The judges of the cantonal and the municipal courts shall not be criminally prosecuted or responsible in civil proceedings for any action undertaken in performing their functions.

### **V. - MUNICIPAL AUTHORITIES**

#### **1. General Provisions**

#### **Article 55.**

In exercise of its jurisdiction, each municipality shall:

- a. undertake all the necessary measures for protection of human rights and freedoms as determined in the Constitution of Federation, and as envisaged in the instruments of the Annex to the Constitution of Federation, and shall proceed in accordance with the Constitution of Federation, this Constitution and the municipal Statute,
- b. exercise its duties taking into account the national structure of the population in that municipality.

#### **Article 56.**

The municipality shall exercise local self-management and shall perform the tasks envisaged in this Constitution and those transferred to it by the Canton or Federation.

The local self-management shall be exercised by performing duties as determined in this Constitution, the cantonal law and the municipal Statute.

The municipality shall particularly perform as follows:

- a. create and develop material and other conditions for life and work and to meet the general and common needs and interests in accordance with this Constitution, the reputations of Federation and Canton, and the determined policy in the municipality.
- b. build and maintain the infrastructure of local importance (roads, water supply, etc.),
- c. ensure the measures of protection against natural and other disasters, as well as the primary health care and sanitary protection,
- d. manage public goods and goods in public use of local importance,
- e. ensure the financing of the general and common needs from the scope of responsibility of the municipality,
- f. ensure the general conditions for supply of citizens and for provision of services,
- g. bring regulations pertaining to the exercise of municipal scope of duties.

#### **Article 57.**

The municipality shall have the Statute.

The Statute and other regulations of the municipality, must be in compliance with the Constitution of Federation, this Constitution and the cantonal legislature.

### **2. Municipal Council**

#### **Article 58.**

Each municipality shall have the Municipal Council.

#### **Article 59.**

The number of members of the Municipal Council shall be determined in the Statute of the municipality, whereby it may not be less than 15 or exceed 50 members.

#### **Article 60.**

The mandate of the members of the Municipal Council shall last for two years, whereby the mandate of the first members of the Municipal Council shall last for one year.

#### **Article 61.**

The Municipal Council members shall be elected in a democratic process by the voters at direct or secret elections on the whole territory of the municipality. Each voter has the right to cast his vote to any of the registered parties and to be elected Council member.

Each party shall receive the number of places in the Council proportionally to the percentage of the votes received.

#### **Article 62.**

The Municipal Council shall be responsible for:

- a. preparation and adoption of the statute of the municipality, which shall be adopted by the two-third majority of the Municipality Council members,
- b. organization of elections for the president of the Municipal Council,
- c. appointing and dismissal of the municipal prefect,

- d. adoption of the municipal budget and bringing of the regulations pertaining to taxation and ensuring in other methods of the necessary financing which was not ensured by the cantonal or federal authorities,
- e. bringing of its procedural rules,
- f. bringing of other regulations in the exercise of municipal powers.

#### **Article 63.**

The Municipal Council shall hold its sessions in public, except in some extraordinary cases as envisaged in the Procedural Rules, and shall make records of discussions and of the decisions rendered.

#### **Article 64.**

The municipal regulations shall come into effect as provided in them, but not prior to being publicized in the official bulletin of the municipality.

#### **Article 65.**

The Statute of the municipality shall determine the procedure and the appointment of the president of the Municipal Council and the Municipal Prefect.

### **3. Municipal Prefect**

#### **Article 66.**

Each municipality shall have the Municipal Prefect.

#### **Article 67.**

The Municipal Prefect shall be appointed by the Municipal Council.

More detailed provisions on the appointment of the Municipal Prefect shall be provided in the Statute of the municipality.

#### **Article 68.**

The functions of the Municipal Prefect and the member of the Municipal Council may not be connected.

#### **Article 69.**

The Municipal Prefect shall be responsible for:

- a. appointment and dismissal of the municipal officials,
- b. implementation of the municipal policy, application of the municipal regulations and duties transferred to the municipality by the cantonal or federal authorities,
- c. ensuring the cooperation between the municipal officials and the ombudsmen,
- d. submission of reports to the Municipal Council and to the public on the implementation of the municipal policy and his own activities,
- e. consultations pertaining to the appointment of judges of the municipal court,
- f. preparation of the proposals for review by the Municipal Council, and
- g. exercise of other powers as determined by the law and the Statute of the municipality.

#### **4. Municipal Courts**

##### **Article 70.**

The municipal courts shall be established in the law of the Canton.  
The municipal courts shall be financed from the budget of the Canton.

##### **Article 71.**

The municipal court shall be established for the territory of the municipality.  
One municipal court may be established for two or more municipalities.

##### **Article 72.**

The municipal councils have the original jurisdiction for all civil and criminal matters, unless the Constitution of Federation, this Constitution, the law of Federation or the law of the Canton transfer a portion of the original jurisdiction to another court.

##### **Article 73.**

The judges of the municipal courts shall be appointed by the Presiding Judge of the cantonal court, upon consultations with the Municipal Prefect.

##### **Article 74.**

Each municipal court shall elect the Presiding Judge of that court in accordance with the law.

#### **VI. - AMENDMENTS TO THE CONSTITUTION OF THE CANTON**

##### **Article 75.**

The amendments to the Constitution of the Canton may be proposed by the Prefect of the Canton, the Government of the Canton, and the majority of the representatives in the Parliament.

The proposed amendment to the Constitution of the Canton may be finally reviewed in the Parliament before the expiration of the two-week period following its first submission.

The proposed amendment shall be adopted by a two-third majority of the representatives in the Parliament.

##### **Article 76.**

No amendment to the Constitution of the Canton may revoke or restrict any of the rights or freedoms determined in the Constitution of Federation and the instruments envisaged in the Annex to the Constitution of Federation.

## **VII. - ADOPTION AND COMING INTO EFFECT OF THE CONSTITUTION OF THE CANTON AND TRANSITIONAL PROVISIONS**

### **Article 77.**

The Constitution of the Canton shall be adopted and pronounced by the Parliament in the transitional period, which consists of five representatives for each of the municipal parliaments elected from among themselves by the representatives in each municipal parliament elected at the 1990 elections with still valid mandates.

The Constitution shall be adopted by a two-third majority of the representatives in the Parliament of the Canton, in the transitional period, and shall be effective on the day of adoption.

Exceptionally, the quorum for adoption of this Constitution, the law and other decisions from the jurisdiction of this Parliament in the transitional period consists of the representatives of the municipal parliaments from Article 6 of this Constitution elected from among themselves by the representatives in each of such parliaments at the 1990 elections with the still valid mandates.

The work of this Parliament, without the right of decision-making, shall be also participated by the persons performing the duties of the administrative trustees from the municipalities in which no representatives to this Parliament were elected, in accordance with the provisions of the Constitution of Federation.

### **Article 78.**

Until the bringing of the law and other cantonal regulations, all laws, regulations and judicial rules shall be applicable which are in effect in Federation, as well as the regulations of HR H-B, to the extent to which they are not contrary to this Constitution and the Constitution and the laws of Federation.

### **Article 79.**

Until the first session of the Parliament of the Canton, its functions, according to this Constitution, shall be performed by the Parliament of the Canton in the transitional period.

### **Article 80.**

In the transitional period, the Prefect of the Canton may perform the duty of the Prime Minister.

If the Parliament of the Canton in the transitional period determines that the Prefect of the Canton shall perform the duty of the Prime Minister, the Parliament of the Canton in the transitional period shall appoint the Government at the proposal of the Prefect of the Canton as the mandatory for the composition of the Government.

### **Article 81.**

On the day of coming into effect of this Constitution, all persons on state official functions in the Canton shall remain on such functions until they are dismissed from their duties in accordance with the appropriate law or until such functions are revoked.

**Article 82.**

The representatives in each municipal parliament elected in 1990, whose mandates are still valid, shall, as soon as possible, elect the municipal authority bodies in the transitional period in accordance with the Constitution of Federation and this Constitution.

**Article 83.**

No person convicted for war crimes or against whom a judicial procedure is instituted for perpetrated war crimes may be elected for any public function in the Canton.

**Article 84.**

The released results of the 1991 census shall be used in the calculations requiring the data on the population.

**Article 85.**

This Constitution shall be publicized in the "National Gazette of the Canton".