

# CONSTITUTIONAL LAW IN KOSOVO

FISNIK KORENICA  
DREN DOLI



Wolters Kluwer

Law & Business

# **Constitutional Law in Kosovo**

**Fisnik Korenica**

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# List of Abbreviations

AG	Auditory General
AKR	Aleanca Kosova e Re
APO	Appellate Prosecution Office
BPO	Basic Prosecution Offices
CBF	Committee on Budget
CBK	Central Bank of Kosovo
CCC	Consultative Council for Communities
CEC	Central Electoral Commission
CEO	Chief Executive Officer
CFPSG	Constitutional Framework for Provisional Self-Government
CoE	Council of Europe
CPS	Chief Prosecutor of the State
CRCACC	Committee for the Review of Candidates for Appointment to the Constitutional Court
CRIC	Committee on the Rights and Interests of the Communities
ECHR	European Convention on Human Rights
ECLSG	European Charter of Local Self-Government
ECtHR	European Court of Human Rights
ESDP	European Security and Defence Policy
EULEX	European Union Rule of Law Mission in Kosovo
EUSR	European Union's Special Representative
FSRY	Federal Socialist Republic of Yugoslavia
FYR	Federal Yugoslav Republic
ICJ	International Court of Justice
ICR	International Civilian Representative
ICTY	International Criminal Tribunal for the former Yugoslavia
IMC	Independent Media Commission
IMP	International Military Presence
KDU	Kosovo's Declaration of Independence
KFOR	Kosovo Force
KIA	Kosovo Intelligence Agency
KIPA	Kosovo Institute for Public Administration
KLA	Kosovo Liberation Army
KSC	Kosovo Security Council
KSF	Kosovo Security Force
LDK	Lidhja Demokratike e Kosoves

## List of Abbreviations

LPPRC	Law on the Protection and Promotion of the Rights of Communities and their Members
LUL	Law on the Use of Languages
MEC	Municipal Election Commissions
MP	Member of Parliament
NATO	North Atlantic Treaty Organization
PDK	Partia Demokratike e Kosoves
PS	Permanent Secretary
RPCC	Rules of Procedure of the Constitutional Court
SPAC	Senior Public Appointment Committee
SPO	Special Prosecution Office
SRSG	Special Representative of the Secretary General
TO	Table Office
UN	United Nations
UNMIK	United Nations Interim Administration Mission in Kosovo

## Preface

This monograph represents the first scholarly contribution elucidating the constitutional law of Kosovo in the English-language. Being the world's youngest state and facing numerous problems surrounding its international recognition, Kosovo remains an example of a state that has been formed under an international supervisory framework. Hence, the international community's state-building efforts have shaped and directed most of the constitutional and legal choices, of both international and domestic relevance, made in Kosovo.

Given this context, this monograph has two major objectives. First, it provides an informative overview of Kosovo's constitutional law and the institutional organization deriving thereof, including the underlying principles that the international community built while setting up these designs. On the other hand, the monograph provides a critical assessment and analysis of the main rationales upon which the constitutional choices were made, offering certain arguments and in-depth scrutiny on several key issues.

As a young state, Kosovo has not yet built its fundamental legislation and institutional organization at the level of a fully fledged state. Hence, the lack of institutional and legislative frameworks on a number of issues, coupled with the poor and scarce case law of the Kosovar courts to date, has presented significant challenges. To this extent, we have had to leave unexamined and unexplained a number of issues deemed of secondary relevance for a state, hoping to produce an updated version in several years, as Kosovo continues to build its own legislation. Accordingly, we have tried to provide the most information possible on the structural issues of the polity, understanding that much more must be included in a monograph explaining a more fully developed state.

To date, the lack of many scholarly contributions addressing Kosovo's constitutional law in the aftermath of independence – both in English and in domestic languages – makes it more difficult to address the discussions from a diverse and scholarly perspective. However, the monograph, in general, builds upon several of the analyses we have conducted in recent years – most of which have been published in internationally peer-reviewed journals – and on other internationally peer-reviewed works that deal with post-independence Kosovo. The question of academic impartiality in explaining and analysing the issues this monograph elucidates holds substantial importance. Thus, we have followed a rigidly neutral approach toward every issue, especially those with an ethnic nature, making the monograph itself academically sustainable and inclusively comprehensible. This characteristic – amongst others – brings this work up to international standards.

In addition, this monograph has greatly benefited from in-depth comments made by our academic colleagues at the Group for Legal and Political Studies – who have

## **Preface**

offered both academic and practical insights on the constitutional developments in Kosovo – and whose comments have much improved and sharpened the issues elucidated in this monograph.

Finally, we would like to express our thanks to the editors of this series, Prof. Dr André Alen and Dr David Haljan. We extend a special thank you to Mr Joeri Lauwers, who coordinated this project and enabled the publishing of this monograph to proceed in a timely manner.

Pristina, March 2011



# Table of Contents

The Authors	3
List of Abbreviations	21
Preface	23
General Introduction	25
Chapter 1. Concise Constitutional History of Kosovo with an Emphasis on the Latest State-forming Developments	25
Chapter 2. Kosovo's Statehood and the International Court of Justice Advisory Opinion	37
Chapter 3. Outline of the Form of Polity and the Peculiarities Therein	42
§1. PRINCIPLES OF THE CONSTITUTIONAL SYSTEM	42
§2. THE MODEL OF DEMOCRACY	45
§3. THE INTERNATIONAL PRESENCE IN AND SUPERVISION OF KOSOVO'S INDEPENDENCE	48
§4. THE ICR AND THE EUSR	48
§5. THE INTERNATIONAL SUPERVISION AND PRESENCE IN KOSOVO; THE CONTESTED SOVEREIGNTY	51
§6. SOURCE OF POWER OF THE INTERNATIONAL PRESENCE IN KOSOVO	51
Chapter 4. State Population and Territory	53
Selected Bibliography	55
	5

## Table of Contents

Part I. Sources and the Hierarchy of Legal Order	59
Chapter 1. Hierarchy of Law in Kosovo	60
§1. THE RELATIONSHIP BETWEEN THE CONSTITUTION OF KOSOVO AND THE AHTISAARI PLAN: THE SEARCH FOR A <i>GRUNDNORM</i>	60
§2. THE CONSTITUTION	63
I. General Outline	63
II. Initiation of the Amendment Procedure	64
III. Adoption of the Constitutional Amendments	64
IV. Constitutional Rigidity in Kosovo	65
§3. THE RELATIONSHIP BETWEEN INTERNATIONAL LAW AND NATIONAL LAW	66
§4. THE LEGAL ACTS SUBORDINATED TO THE CONSTITUTION AND TREATIES	69
Part II. Form of Government	71
Chapter 1. General Outline	71
§1. INTRODUCTION	71
§2. POLITICAL PARTIES	73
§3. PEOPLE'S PARTICIPATION IN DECISION-MAKING	73
§4. INTERNATIONAL SUPERVISION OF KOSOVO'S INSTITUTIONS	74
Chapter 2. The President of Republic	76
§1. GENERAL OUTLINE	76
§2. THE CONSTITUTIONAL DETERMINATION FOR THE PRESIDENT OF REPUBLIC	77
§3. MODEL OF THE APPOINTMENT	78
§4. ELIGIBILITY OF CANDIDATES	79
§5. PARLIAMENTARY PROCEDURE FOR APPOINTMENT	79
§6. TYPE OF MANDATE	81

§7. ASSUMING THE POST AND LENGTH OF MANDATE	82
§8. INCOMPATIBILITY	83
§9. DISMISSAL	86
§10. IMMUNITY	87
§11. RESPONSIBILITIES AND COMPETENCIES	89
Chapter 3. The Parliament	95
§1. GENERAL OUTLINE	95
§2. STRUCTURE OF THE PARLIAMENT	95
§3. DISTRIBUTION OF SEATS IN THE PARLIAMENT	95
§4. THE POWERS OF THE PARLIAMENT	97
I. The Legislative Powers of the Parliament	97
II. The Powers to Appoint, Dismiss and Oversee Certain Institutions	97
III. The Powers Relating to Policy Making	98
IV. Other Powers of the Parliament	98
§5. ELECTION OF PARLIAMENT AND MANDATE	99
I. Election System and Term of Office	99
II. Arranging the Inaugural Session	99
III. Extraordinary Extension of the Parliament's Mandate	100
§6. ORGANIZATION OF THE PARLIAMENT	100
I. Parliament's Autonomy to Regulate Its Own Business and Organization	100
II. The President and the Presidency of the Parliament	101
III. Powers of the Presidency of the Parliament	102
IV. Decision-making and Meetings of the Presidency	103
§7. THE PARLIAMENTARY SESSIONS	104
I. Quorum	104
II. Order of Business in the Parliamentary Sessions	104
III. The Order of Debate in the Plenary Sessions of the Parliament	105
IV. Order of the Non-MP Persons and Public in the Parliament	105
§8. PARLIAMENTARY GROUPS	105
I. Minimum Membership	105
II. Establishment of the Parliamentary Groups	106

## Table of Contents

§9. MODEL OF MPS' TERM OF OFFICE	106
I. Start of Term	106
II. End of Term	107
III. Legal Qualifications needed to become an MP	107
IV. Incompatibility Provisions	107
V. Ineligibility	108
VI. Immunity of MPs	108
§10. PARLIAMENTARY COMMITTEES	109
I. Establishment of the Parliamentary Committees	109
II. Reports	110
III. Special Authority to Scrutinize the Application of Laws by the Government and Ministries	110
§11. TYPES OF COMMITTEES AND THEIR NAMES	110
§12. PERMANENT COMMITTEES	111
I. Composition of CRIC	111
II. Function of CRIC	111
III. Committee on Budget and Finances	112
§13. OPERATIONAL PARLIAMENTARY COMMITTEES	112
§14. AD HOC PARLIAMENTARY COMMITTEES	113
§15. COMMITTEES OF INQUIRY	113
I. Establishment of Inquiry Committees	114
II. Composition of Inquiry Committees	114
III. Decision-making in the Inquiry Committees	115
§16. LAW-MAKING PROCESS	115
I. Legislative Initiative	115
II. The Form of the Proposals for Laws	116
III. Language Conditions for Every Draft Law	116
IV. Processing of the Draft Law in the Parliament	117
V. First Reading of Draft Laws	117
VI. Committees' Decisions	118
VII. Second Reading of Draft Laws	119
VIII. Third Reading of Draft Laws	119
§17. ADOPTION OF LAWS	120
§18. PRESIDENTIAL DECREE OF LAWS	120
§19. ENTRY INTO FORCE OF LAWS	120

## Table of Contents

§20. SPECIAL LAWS	121
§21. DISSOLUTION OF THE PARLIAMENT	122
Chapter 4. The Government	123
§1. GENERAL OUTLINE	123
§2. AUTHORITY OF THE GOVERNMENT	123
I. Powers Regarding the Internal and Foreign Affairs	124
II. Powers Regarding the Law/Sub-law Making Process	125
III. Powers Regarding Co-decision making in Some Specific Procedures	126
IV. The Remaining, Non-exhaustive List of Powers	127
§3. THE PRIME MINISTER: A GENERAL OUTLINE	128
I. Powers Relating to the Governance of the Government	128
A. The Prime Minister As a Representative and Leader of the Government	128
B. The Prime Minister As a Supervisory Authority towards the Subordinated Institutions	129
C. The Prime Minister As the Sole Authority to Ensure the Functions Assigned to the Government	129
D. The Prime Minister As the Authority That Controls His/Her Ministers	130
II. Power Relating to the Other Institutions of the State	131
III. Powers Relating to His/Her Position	131
§4. APPOINTMENT OF THE GOVERNMENT	132
§5. OFFICE OF PRIME MINISTER	134
§6. MINISTRIES AND MINISTERS	135
§7. RESERVED PLACES FOR ETHNIC MINORITIES IN THE GOVERNMENT	137
§8. APPOINTMENT OF ETHNIC MINORITY MINISTERS HOLDING RESERVED SEATS	137
§9. INCOMPATIBILITY FOR BECOMING A GOVERNMENT MEMBER	138
§10. PARLIAMENTARIAN CONTROL OF THE GOVERNMENT	138
§11. THE INSTRUMENTS OF PARLIAMENTARIAN CONTROL OF THE GOVERNMENT	139
I. Motion of No-confidence on the Government	139

## Table of Contents

II. Approving of the State's Budget as a Parliamentary Control Means	140
§12. IMMUNITY	140
§13. SESSIONS OF THE GOVERNMENT	141
§14. THE RELATIONSHIP BETWEEN THE PRIME MINISTER AND THE MINISTERS	142
Chapter 5. The Judiciary	145
§1. GENERAL OUTLINE	145
§2. ORGANIZATION OF THE JUDICIARY	146
§3. THE BASIC COURTS	147
I. The Scope of Jurisdiction of Basic Courts	150
II. Basic Courts' Jurisdiction on Commercial Matters	151
III. Basic Courts' Jurisdiction on Serious Criminal Matters	152
IV. Basic Courts' Jurisdiction on Administrative Conflicts	153
V. Basic Courts' Jurisdiction on the Remaining Issues	153
§4. THE COURT OF APPEALS	153
I. Jurisdiction	154
II. Adjudication of Cases at the Court of Appeals	155
III. Organization of the Court of Appeals	155
§5. THE SUPREME COURT	156
I. Composition	156
II. Jurisdiction	157
III. Adjudication of Cases	158
IV. Abstract Directions of the Supreme Court	158
V. Publication of Supreme Court Rulings	158
§6. APPOINTMENT AND DISMISSAL OF JUDGES IN THE REPUBLIC OF KOSOVO	158
§7. TERM OF OFFICE OF JUDGES	162
§8. INCOMPATIBILITY	162
§9. IMMUNITY OF JUDGES	163
§10. LAY JUDGES	163
§11. THE SALARY SYSTEM IN THE JUDICIARY	164

## Table of Contents

§12. KOSOVO JUDICIAL COUNCIL	164
I. Composition of the Kosovo Judicial Council	166
II. Certain Characteristics on the Work of the Kosovo Judicial Council	167
 Chapter 6. The State Prosecutor	 169
§1. GENERAL OUTLINE	169
§2. RESPONSIBILITIES OF THE PROSECUTORS	170
I. Duties and Responsibilities Concerning the Exercising of the Function of Public Prosecutor	170
II. Duties and Responsibilities Concerning the Investigation and Prosecution Functions	170
III. Duties and Responsibilities Concerning the Protection of Victims, Witnesses, etc.	171
IV. Other Duties and Responsibilities of the Public Prosecutors	171
§3. THE ORGANIZATION AND THE JURISDICTIONAL LEVELS OF THE STATE PROSECUTOR	172
§4. THE CHIEF PROSECUTOR OF THE STATE	172
I. Responsibilities in the Field of Third-instance and Appeals	172
II. Competencies in the Regulatory Field	173
III. Responsibilities Regarding the Functional Direction of the State Prosecutor and the Prosecutors Thereof	173
IV. Responsibilities Regarding the Administrative Operation of the State Prosecutor at All Levels	174
§5. THE SPECIAL PROSECUTION OFFICE	174
§6. THE APPELLATE PROSECUTION OFFICE	175
§7. BASIC PROSECUTION OFFICES	176
§8. CRITERIA FOR APPOINTMENT OF THE STATE PROSECUTORS AND THE APPOINTMENT PROCESS	177
§9. APPOINTMENT	177
§10. MANDATE	178
§11. IMMUNITY	178
§12. KOSOVO PROSECUTORIAL COUNCIL	179
I. Responsibilities	179
II. Budget of the State Prosecutor and the Ethical Standards	180

## Table of Contents

III. Composition of the Kosovo Prosecutorial Council	180
IV. Decision Making	181
 Chapter 7. The Constitutional Court	 182
§1. GENERAL OUTLINE	182
§2. THE ROLE ESTABLISHED BY THE CONSTITUTION	182
§3. COMPOSITION OF THE CONSTITUTIONAL COURT	182
§4. CRITERIA FOR CANDIDATES	183
§5. INCOMPATIBILITY	183
§6. THE PROCEDURE FOR APPOINTMENT	185
I. Review Procedure	185
II. Composition of CRCACC	185
III. Mandate and Procedure of Short-listing	186
IV. Parliament's Decision on the Proposal	187
V. Final Appointment Procedure	188
§7. TERM OF THE CONSTITUTIONAL JUDGES	188
§8. THE PRESIDENT OF THE CONSTITUTIONAL COURT	188
I. Powers of the President of the Constitutional Court	189
§9. TERMINATION OF CONSTITUTIONAL JUDGES' TERM	189
§10. THE PROCEDURE FOR DISMISSAL	189
§11. INTERNAL ORGANIZATION	189
§12. IMMUNITY	190
§13. BUDGET	190
§14. REMUNERATION OF CONSTITUTIONAL JUDGES	190
 Chapter 8. Judicial Review by the Constitutional Court	 191
§1. GENERAL OUTLINE	191
§2. ABSTRACT JUDICIAL REVIEW	191



## Table of Contents

I. Review of the Constitutionality of Laws, Decrees of the President of the Republic and Prime Minister, and Regulations of the Government, and Municipal Statutes	191
II. Other Abstract Review Controls	193
§3. INCIDENTAL JUDICIAL REVIEW	194
§4. LEGAL EFFECT OF CONSTITUTIONAL COURT RULINGS	195
Chapter 9. Independent Institutions	196
§1. THE CENTRAL BANK OF KOSOVO	196
I. Function and Responsibilities	196
II. Composition and Governance	197
III. The Central Bank Board	197
IV. The Executive Board	198
V. The Governor	198
VI. Independence	199
§2. THE OMBUDSPERSON	199
I. Function and Responsibilities	199
II. The Office of Ombudsperson	200
III. Appointment	200
IV. Reports of the Ombudsperson	201
§3. THE AUDITORY GENERAL	202
I. Function and Responsibilities	202
II. Appointment	203
III. Office of the AG	204
§4. THE INDEPENDENT MEDIA COMMISSION	204
I. Function and Responsibilities	204
II. Composition and Governance	204
Part III. Fundamental Rights and Special Ethnic Minority Rights and Protection	207
Chapter 1. General Issues on the Fundamental Rights and Freedoms in Kosovo	207
§1. GENERAL OUTLINE	207
§2. GENERAL HUMAN RIGHTS PRINCIPLES	208
§3. DIRECT APPLICABILITY OF INTERNATIONAL AGREEMENTS AND INSTRUMENTS	209
	13