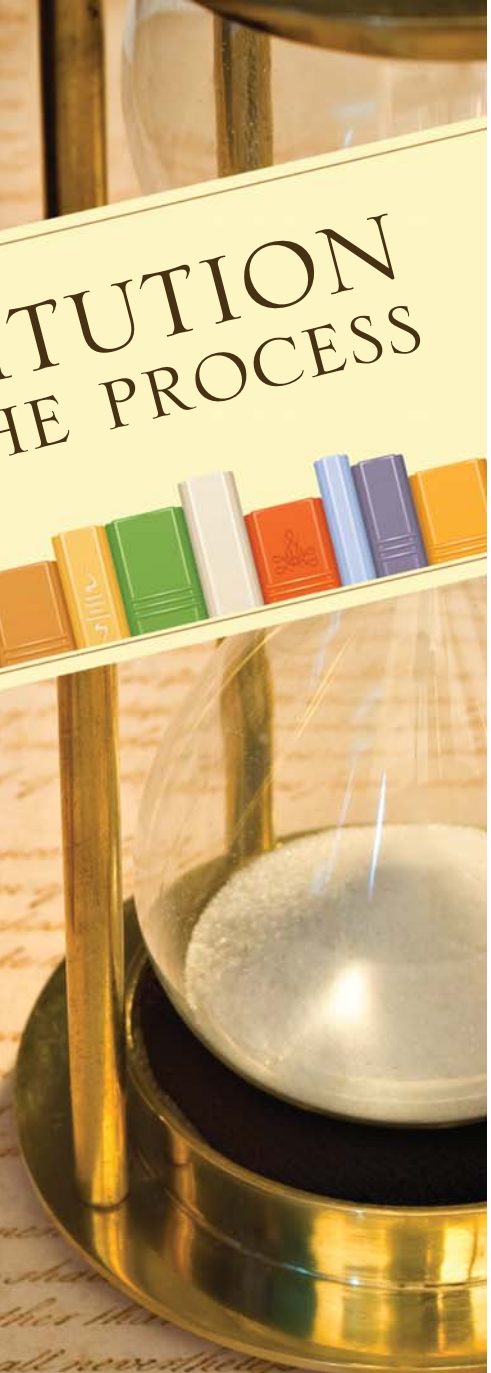
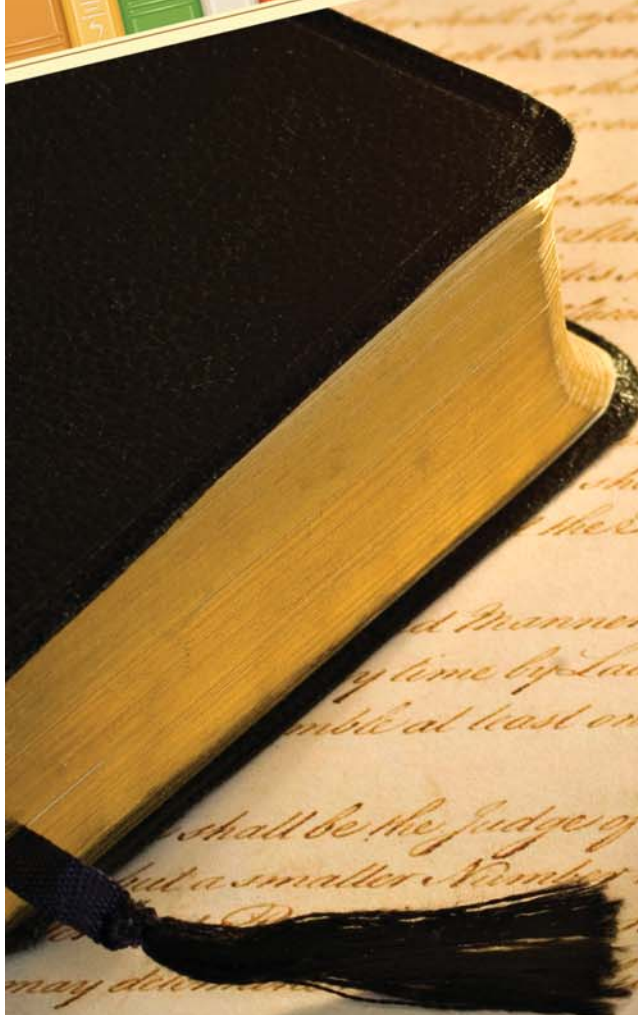
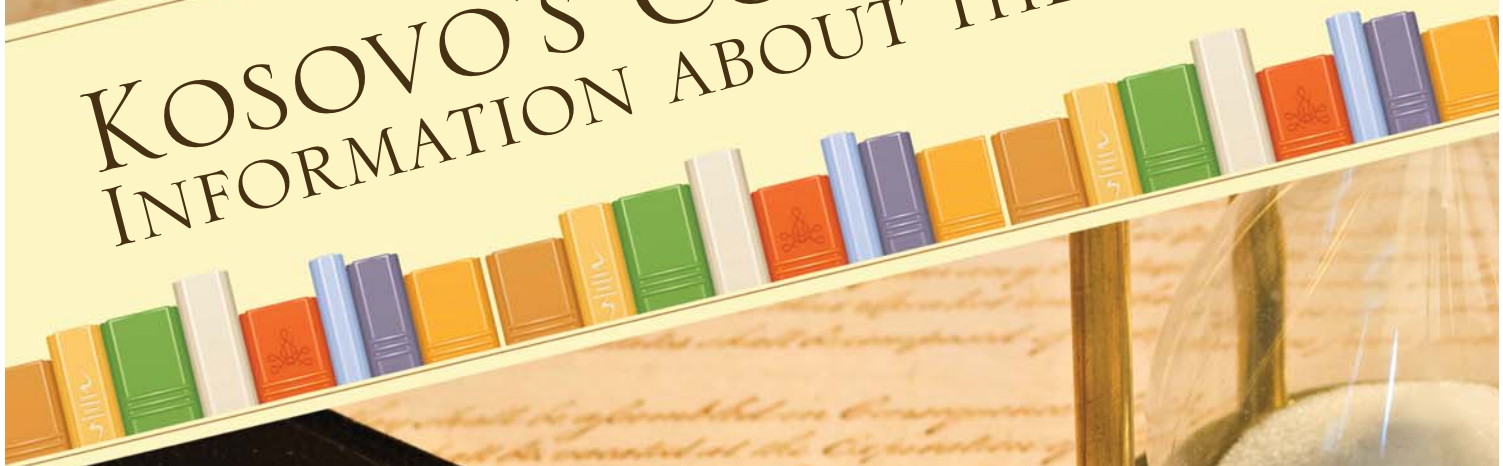


# KOSOVO'S CONSTITUTION INFORMATION ABOUT THE PROCESS



...shall not have attained  
...shall be President of  
...and also a President  
...by all its members  
...And no Person shall  
...shall not extend further than  
...the Party convicted shall nevertheless  
...d manner of holding Elections for Senators and  
...y time by Law make or alter such Regulations, except  
...ible at least once in every year, and such Meetings sh  
...shall be the Judges of the Elections, Returns and Qualificatio  
...but a smaller Number may adjourn from day to day, and me  
...House may provide.  
...its Proceedings, punish its Members for  
...shall keep a Journal of its Proceedings, and from time to time pub  
...nd News of the Members of either House on any question shall, at t  
...during the Session of Congress, shall, without the Consent of the  
...two Houses shall be sitting.

## WHAT IS A CONSTITUTION?

A constitution is the highest law of a country. It is also an agreement between citizens and their government leaders. This agreement defines the powers of the leaders and the powers of the citizens. It defines these powers by providing a structure of government, by dictating how governmental powers will be exercised and, by setting out the rights of the citizens.

Once established, this agreement is intended to serve as a fundamental guarantee of the rights of individuals and the form of government.

**A CONSTITUTION IS THE HIGHEST LAW OF A COUNTRY.**

Because a constitution is to serve as a base for organizing the affairs of all citizens, it is given a special, supreme status. Consequently, any law or administrative act is by definition invalid to the extent it is inconsistent with the constitution. This supremacy is intended to place the constitution outside the realm of politics.

**WHILE A MAJORITY OF CITIZENS MAY CHANGE LEADERS WITH EACH ELECTION, THE CONCEPT OF A CONSTITUTION IS THAT CERTAIN BASIC STRUCTURES ARE BEYOND ELECTORAL POLITICS. THESE STRUCTURES PROVIDE A SYSTEM THAT REMAINS IN PLACE REGARDLESS OF ELECTIONS.**

Citizens must embrace the guarantees in the constitution and exercise their constitutional rights vigorously to create a climate where constitutional democracy will thrive. The constitution of a country enjoys special status in the hierarchy of laws, for it is generally considered to be the supreme law. However, in the end, its actual supremacy comes from the citizens who safeguard its enforcement.

**ONCE RATIFIED, A CONSTITUTION BECOMES THE FOUNDATION FOR A DEMOCRATIC SOCIETY, BUT THE ULTIMATE CONSTRUCTION OF THIS SOCIETY RELIES ON THE ACTIVE PARTICIPATION OF CITIZENS.**

The text that follows includes a description of issues that are usually covered in a constitution and which provide for the basis of a country's political system.





**THE CONSTITUTION MUST REAFFIRM THE PRINCIPLE THAT ALL PERSONS ARE ENTITLED TO HUMAN RIGHTS AND FREEDOMS.**

## HOW ARE HUMAN RIGHTS ENSHRINED IN CONSTITUTIONS?

It must adhere to international human rights law by enshrining the basic principles recognized by international treaties and conventions on human rights. Those instruments specifically prohibit discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, association with community, property, birth or other status.

Basic freedoms such as freedom of expression and freedom of association and protection against any unwarranted intrusion by the government into the private lives of its citizens are also considered to be human rights. Institutions must be established to ensure that these rights are protected.

## HOW DO CONSTITUTIONS PROTECT THE RIGHTS OF COMMUNITIES?

The Constitution must enshrine the concept of non-discrimination and special rights. Non-discrimination includes ensuring equal treatment of all individuals. Special rights ensure protections for national non-majority communities. Special rights aim to preserve the unique characteristics and traditions of non-dominant groups in the society which have distinct ethnic, linguistic, religious, cultural and other characteristics that may differ from those of the majority population. These special rights given to non-majority communities aim to ensure that they are able to freely hold an equal position in society as that held by the majority. Constitutional concepts dealing with the protection of non-majority community rights endeavor to satisfy the highest standards of universal and international treaties.

**THE CONSTITUTION MUST ENSHRINE THE CONCEPT OF NON-DISCRIMINATION AND SPECIAL RIGHTS.**

## WHY IS SELF-GOVERNANCE IMPORTANT AND HOW DO CONSTITUTIONS ADDRESS IT?

The Constitution must ensure that certain institutions and services are provided and managed locally. These institutions and services include but are not limited to local economic development, urban and rural planning, educational institutions, childcare centers, town halls, health care facilities, and sports centers. Together they make up both the physical fabric and the sense or feel of a community.

They represent both the forums and meeting places of the community where individuals can participate in the decision making process.

**THE CONSTITUTION MUST ENSURE A DEGREE OF SELF-GOVERNANCE AT THE LOCAL LEVEL TO ENCOURAGE AND PROVIDE FOR THE ACTIVE PARTICIPATION OF CITIZENS IN A DEMOCRATIC LIFE.**



## WHY IS THE SEPARATION OF POWERS OF THE GOVERNMENT IMPORTANT AND HOW CAN IT BE ADDRESSED THROUGH A CONSTITUTION?

The separation of powers is considered the basic foundation upon which a constitutional democracy is built. Under this system, independent and distinct powers are given to each of the three branches of government: Executive (President and Prime Minister), Legislative (assembly), and Judicial (the courts). Each of the three branches of government is given specific powers to prevent the abusive or excessive exercise of power by the other branches. In this sense, one branch “checks” the power of the other branches, and this overall arrangement serves to create greater “balance” of power between them. This system is often referred to as “checks and balances”. For example, the legislative branch typically makes laws, and the executive branch is responsible for enforcing or “executing” the laws. In many countries, the executive branch can also propose laws and amendments to laws and veto legislation if it considers the legislation inappropriate. It is the function of the judicial branch to resolve any disputes which arise in the application of the law. In doing so, it exercises its own power by interpreting the law and also overturning laws which are contrary to the Constitution. Since the judiciary often acts as an arbiter or referee in resolving disputes, it is particularly important for judges to be impartial and free from the influence of the other branches of government. Consequently, the Constitution usually includes provisions for the guarantee of judicial independence.

## WHAT DOES “RULE OF LAW” REFER TO AND HOW CAN IT BECOME INCORPORATED INTO A CONSTITUTION?

The Constitution must establish a foundation for the rule of law wherein democratic values can operate. This means that the law applies with equal force to private citizens and public servants alike and that all disputes shall be resolved in accordance with the laws which have been adopted by the democratically elected representatives of the people. Since equality is the lynchpin of the rule of law, the Constitution forbids discrimination and provides for the protection of the non-majority.

**THE CONSTITUTION SERVES AS A CONSTRAINT ON THE POWERS OF THE GOVERNMENT AND ENSURES THAT THE GOVERNMENT ACTS ONLY IN ACCORDANCE WITH THOSE LAWS WHICH HAVE BEEN ADOPTED IN ACCORDANCE WITH THE CONSTITUTION.**

It also provides for the equal protection of the law by guarding against the creation of any privileged class of citizens and ensures that the law is made and applied without bias or self-interest.



TO ENSURE A FULLY TRANSPARENT AND PARTICIPATORY PROCESS DURING THE DRAFTING OF KOSOVO'S CONSTITUTION, THE CONSTITUTIONAL COMMISSION HAS LAUNCHED A PUBLIC INFORMATION AND OUTREACH INITIATIVE WITH LOCAL AND INTERNATIONAL PARTNERS TO INFORM THE PUBLIC ABOUT THE COMMISSION'S WORK AND TO ELICIT CITIZEN FEEDBACK AND INPUT. THIS INITIATIVE WILL INCLUDE TOWN HALL MEETINGS AND FORUMS THROUGHOUT KOSOVO WITH CITIZENS AND PROFESSIONAL ASSOCIATIONS AND AN INTERACTIVE WEBSITE WHERE CITIZENS CAN CONTRIBUTE TO THE CONSTITUTION DRAFTING PROCESS.

AS A PART OF THE COMMISSION'S PUBLIC INFORMATION EFFORTS, THIS BROCHURE AIMS TO PROVIDE CITIZEN'S WITH INFORMATION ABOUT CONSTITUTIONS AND THOSE ISSUES WHICH CONSTITUTIONS TYPICALLY ADDRESS SO THAT THE PEOPLE OF KOSOVO ARE ABLE AND READY TO MAKE THEIR CONTRIBUTIONS TO THE NEW CONSTITUTION. FOR MORE INFORMATION ABOUT THE UPCOMING CONSTITUTIONAL COMMISSION EVENTS TO BE HELD IN YOUR COMMUNITY, TO SUBMIT FEEDBACK TO THE COMMISSION ONLINE, OR TO FIND UP-TO-DATE NEWS ON THE COMMISSION'S WORK AND THE CONSTITUTIONAL DRAFT, PLEASE LOG ON TO [WWW.KOSOVOCONSTITUTION.INFO](http://WWW.KOSOVOCONSTITUTION.INFO) ; [WWW.USTAVKOSOVA.INFO](http://WWW.USTAVKOSOVA.INFO) ; [WWW.KUSHTETUTAKOSOVES.INFO](http://WWW.KUSHTETUTAKOSOVES.INFO).

### **WHAT IS THE CONSTITUTIONAL COMMISSION OF KOSOVO?**

The Constitutional Commission of Kosovo has been established in accordance with the provisions in the United Nations Office of the Special Envoy for Kosovo's (UNOSEK) report. The Constitutional Commission is the only body empowered to draft a Constitution to be presented for ratification. The Commission is comprised of legal experts representing political parties and civil society. To find a full listing of the members of the Commission please go to [www.kosovoconstitution.info](http://www.kosovoconstitution.info) ; [www.ustavkosova.info](http://www.ustavkosova.info) ; [www.kushtetutakosoves.info](http://www.kushtetutakosoves.info).

### **WHAT IS THE ROLE AND MANDATE OF THE CONSTITUTIONAL COMMISSION?**

The role and mandate of the Constitutional Commission is to draft a constitution for Kosovo in accordance with the Special Envoy's Comprehensive Proposal for the Kosovo Status Settlement. The draft completed by the Commission will be made available and discussed publicly so that citizens have the opportunity to provide their comments and feedback.

Article 24 of the Rules of Procedure adopted by the Constitution Commission on the drafting of Kosovo's Constitution allows for the establishment of working groups that would focus on specific areas of the Constitutional Commission's work.

The working groups are as follows: 1) Preamble, 2) Founding Principles, Rule of Law and Provisional Principles, 3) Kosovo Institutions, 4) Fundamental Rights and Freedoms, 5) Security and Order, 6) Rights of Communities, 7) Judicial Power, Prosecutors, and the Constitutional Court, 8) Economic Relations, 9) Local Self-Government, and 10) Independent Agencies and the Ombudsperson.

These issues represent the future chapters of the Constitution.

### **WHERE CAN I FIND MORE INFORMATION?**

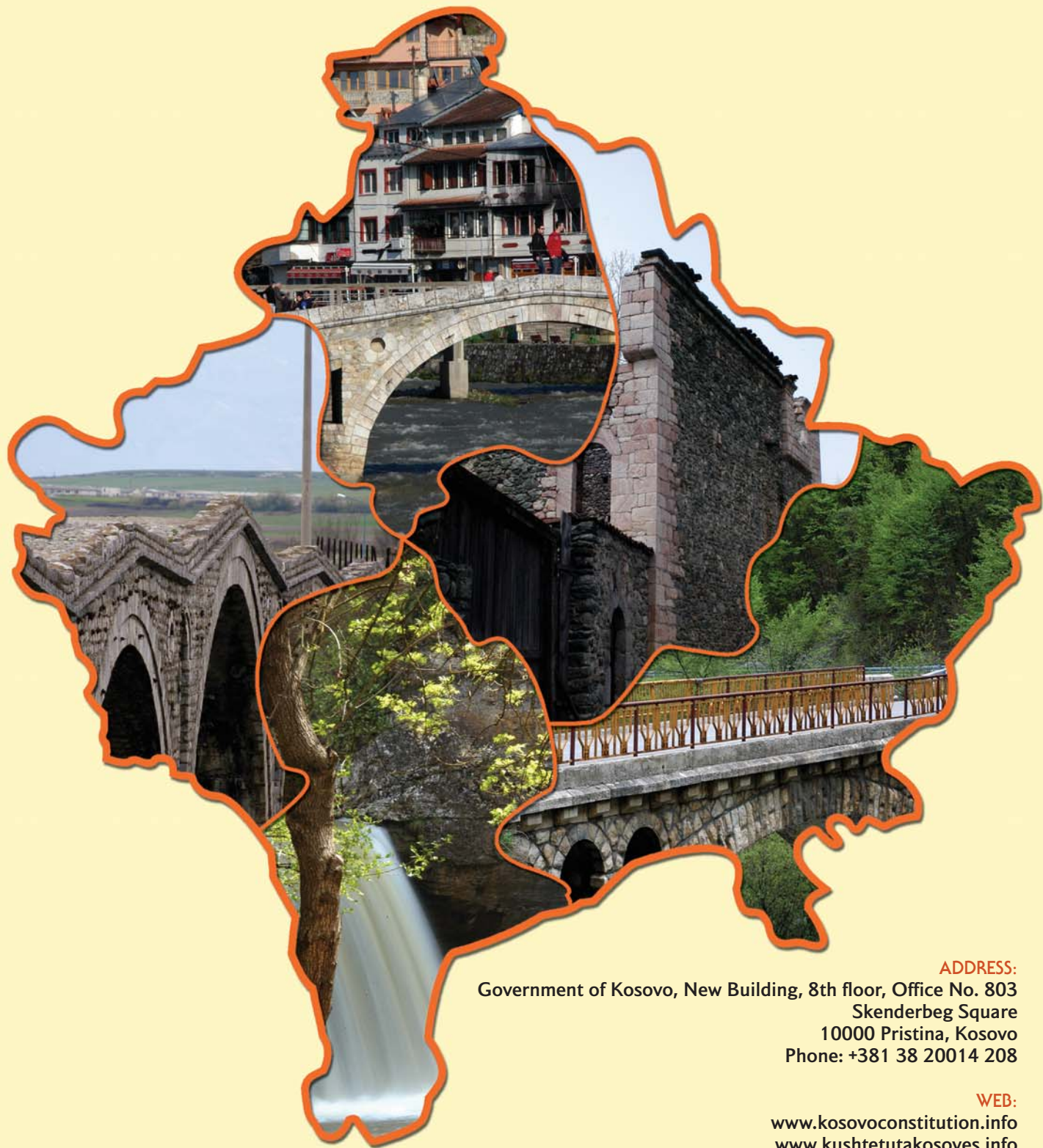
You can learn more about the Kosovo Constitution draft text, send your feedback to the Commission members, find out about outreach activities and read more about issues related to the Kosovo Constitution at the following web-sites:

[www.kosovoconstitution.info](http://www.kosovoconstitution.info)

[www.kushtetutakosoves.info](http://www.kushtetutakosoves.info)

[www.ustavkosova.info](http://www.ustavkosova.info)





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