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# THE WITHERING AWAY OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

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“The state of Serbia and the state of Montenegro are well and alive. We have to define them constitutionally, provide them with international recognition and to integrate them into Europe. The Serbian nationalists will be indeed disappointed with this outcome. However, in acting so, Montenegro will finally bury the tragic idea of Greater Serbia.”<sup>2</sup>

“If we separate in an *ugly way*, with enormous problems, many new questions will be opened and the whole region will be jeopardized. I am sure that neither Europe nor the world will look favorably upon such a decision. Nobody wants a potential fire or fires on their doorstep and nobody wants border changes in the Balkans.”<sup>3</sup>

## THE FORMATION OF THE FRY, HISTORICAL BACKGROUND

When in December 1991 the European Community announced its intention to recognize Slovenia and Croatia by 15 January of the next year, the Serbian government quickly declared (on 26 December 1991) that “a ‘third Yugoslavia’ had been formed with Serbia, Montenegro, and the Serbian Krajina in Croatia.”<sup>4</sup> The territory of Krajina was seized by force from Croatia in June-December 1991, and was prepared to be annexed to the newly re-emerging Yugoslavia. Serbia and Montenegro did not submit a formal request to the European Community for international recognition of this so-called “third Yugoslavia.” The Republic of Serbian Krajina did submit an application for recognition, but it was turned down. The Badinter Commission decided that only the former republics of the SFRY (Croatia, Slovenia, Bosnia-Herzegovina, Serbia, Montenegro and Macedonia) were entitled to statehood. On 12 February 1992 Serbia and Montenegro agreed to remain in the same state, which claimed continuity with the SFRY. Montenegro, one of two federal entities, then hastily organized a referendum on 1 March 1992. Of the 66 percent of the population that voted (the Montenegrin Albanian and Muslim populations refused to participate), 96

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1 I would like to thank professors Irina Busygina of the Slavic Research Center at Hokkaido University, Michael Hickey of Bloomsburg University, and Sabrina Ramet from the University of Washington, for their comments.

2 Milo Djukanovic, *Vijesti*, Podgorica, February 2, 2001, at <http://www.vijesti.cg.yu>.

3 Vojislav Kostunica, *Politika*, Belgrade, December 30, 2000, p. 1. Emphasis added.

4 International Crisis Group (ICG), “Current Legal Status of the Federal Republic of Yugoslavia (FRY) and of Serbia and Montenegro,” *Balkans Report 101* (Washington/Brussels, September 19, 2000), p. 6.

percent answered “yes” to the following question: “Do you agree that Montenegro, as a sovereign republic, should continue to exist within the common state — Yugoslavia, totally equal in rights with other republics that might wish the same?”<sup>5</sup> Serbia did not organize a similar referendum and none of Yugoslavia’s four remaining republics ever expressed any intention to join this Yugoslavia.

The final step in forming the new state was made on 27 April 1992, when the republican parliaments of Serbia and Montenegro and the rump Yugoslavia Federal Assembly issued a “Declaration on the Formation of the Federal Republic of Yugoslavia,” which proclaimed the transformation of the SFRY into the FRY. Since then, the FRY has celebrated 27 April as a state holiday, the “Day of Statehood.” The Badinter Commission, in its Opinion No 11, also recognized 27 April 1992 as the date of succession for the FRY.

The international community rejected the Belgrade government’s efforts to achieve for the FRY the same successor status *vis-à-vis* the SFRY as the Russian Federation achieved *vis-à-vis* the USSR. On September 19, 1992, U.N. Security Council Resolution 777 declared that the FRY could not automatically assume U.N. membership as the successor state to the former Socialist Federal Republic of Yugoslavia. The General Assembly was asked to require the FRY to apply for U.N. membership and in the meantime exclude it from the work of the General Assembly. On July 16, 1993 the Badinter Commission ruled that none of the six successor states of the SFRY (Slovenia, Croatia, Bosnia-Herzegovina, Serbia, Montenegro, and Macedonia) could claim for itself alone the membership rights previously enjoyed by the former SFRY. The Badinter Commission also decided the dates of succession for each recognized successor state of the SFRY. Slovenia and Croatia became independent on October 8, 1991, when their declarations of independence of June 25, 1991 came into effect. Macedonia became independent on November 17, 1991, when it adopted its new constitution. Bosnia-Herzegovina became independent on March 6, 1992, when the results of the February 29 - March 1st, 1992, referendum were officially recognized.

The four former SFRY republics — Slovenia, Croatia, Bosnia and Herzegovina, and Macedonia — decided to apply for membership in international organizations and since then have been recognized by the international community and admitted as members of the United Nations. But while President Milosevic was in power, first as the President of Serbia (1989-1997), then as the President of the FRY (1997-2000), the FRY refused to apply for membership in international organizations. The FRY considered itself the sole successor state of the SFRY, and therefore believed that it was automatically entitled to positions in international organizations previously occupied by the SFRY. The result was partial exclusion from the activities of the U.N. and suspension from other international organizations (including the CSCE, now OSCE).

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5 Ibid., p. 8.

For eight years the FRY was in legal limbo. The flag of the defunct Socialist Federal Republic of Yugoslavia continued to fly outside U.N. headquarters in New York, since it was the last Yugoslav flag used by the U.N. Secretariat, but this was not the flag of the FRY. This absurd situation of perpetuating the memory of a non-existent state had repercussions in the FRY. Between 1992 and 1997, the state holiday of the FRY was November 29, referring to the founding day of the Tito's Yugoslavia in 1943. In 1997 the FRY decided to celebrate November 29, but in reference to the year 1945, when the monarchy was abolished and replaced by the Republic.

After Milosevic's ouster, the new FRY president, Vojislav Kostunica adopted a policy aimed at integrating the FRY into international organizations and particularly into the United Nations. On October 27, 2000, Kostunica wrote to U.N. Secretary-General Kofi Annan and formally applied for U.N. membership. Kostunica had been encouraged in this matter by Russia<sup>6</sup> and France,<sup>7</sup> Serbia's historic allies, who promised him support.<sup>8</sup> The FRY's request was processed very rapidly with no country raising any objection, and on November 1st, it became a member of the U.N. On July 23, 2001, a European Union-FRY Consultative Task Force was inaugurated as the first step towards reaching a Stabilisation and Association Agreement with the EU.<sup>9</sup>

In this article we will argue that international recognition of the FRY and its integration into international organizations after the downfall of Milosevic does not guarantee the stability or longevity of the "Third Yugoslavia." My

6 For Russia Serbia remains, before and after the ouster of Slobodan Milosevic, the last outpost in Europe, after the Soviet Union lost its sphere of influence in East-Central Europe following the disintegration of the international communist system. Serbia welcomed Russian military presence in Kosovo (KFOR) and in Bosnia-Herzegovina (SFOR). In contrast, the Russian military presence in Moldova is strongly challenged not only by the host country, but also by the overwhelming majority of the OSCE states. In fact, Russia refused to reduce, and ultimately withdrew its forces from Moldova, although it had announced to do so at the Istanbul summit of the OSCE states in Turkey in 1999. See: "OSCE and Russia fall out over Chechnya," *BBC*, November 28, 2000, at <http://news.bbc>.

7 For France's very ambiguous attitude toward Serbia and the FRY, during a decade of Yugoslav wars (1991-1999), see my previous work "The US, Europe and the Balkans Wars," in Reneo Lukic, ed., *Rethinking the International Conflict in Communist and Post-Communist States: Essays in Honor of Miklós Molnár* (Ashgate: Aldershot, UK, 1998), pp. 101-139. See also, Reneo Lukic, "L'antiaméricanisme des opposants à la participation française à la guerre contre la République fédérale yougoslave," *Études Internationales* 31:1 (Canada, March 2000), pp. 135-164. In his book, *Crimes de guerre à l'OTAN*, Pierre-Henry Bunel, former French intelligence officer, accused by the French authority for spying in favor of the FRY, described not only his personal sympathy for the Serbs, historical ally of the France, but also of his colleagues, most of them, like Bunel, graduates of prestigious military academy Saint-Cyr. Pierre-Henry Bunel, *Crimes de guerre à l'OTAN*, Editions Premiere (Paris, 2000).

8 "Kostunica: Uspravili smo se kao država i vratili u svet" [We rose as a state and returned to the world], Interview to the daily *Politika*, Belgrade, November 12, 2000, p. 1.

9 ICG, *Balkans Report* 114 (Podgorica/Brussels, August 1, 2001), p. 1.

central contention is that the FRY has in fact been in the process of disintegration since 1998, and that new president Vojislav Kostunica has not reversed this trend. Using recent historical analogies to define the current state of the FRY, we will argue that it is presently in the same political situation as was the SFRY between June and December 1991 — namely, in the process of internal dissolution.<sup>10</sup>

### THE CONSTITUTION OF THE FRY

The constitution of the FRY was adopted on 27 April 1992, together with the “Declaration on the Formation of the Federal Republic of Yugoslavia.” According to the new constitution, the FRY is a federal state composed of citizens and member republics. In Serbia and Montenegro, the new FRY constitution was adopted without any public debate. Only 73 of 220 deputies from Serbia and Montenegro in the last SFRY parliament (*savezna skupstina*) voted for it. In effect, as Nebojsa Cagorovic, a political analyst from Montenegro, wrote, “the constitution was adopted illegally, without a quorum, by the dead legislature of a dead state.”<sup>11</sup> As in 1918, Montenegro was once again annexed by Serbia.<sup>12</sup> If the new constitution was to establish legal continuity between the SFRY and FRY, it had to be adopted by 147 deputies of the Federal Chamber of the SFRY; only in this case could the transfer of authority from the SFRY to the FRY be considered legal.

The constitution of the FRY was adopted after the constitution of Serbia (September 1990) and before that of Montenegro (October 1992). A cumbersome document (144 Articles) with many overlapping clauses, it attempts to reconcile two competing claims for sovereignty — one claimed by the federal units (republics), the other by the federal state. In this regard, the FRY constitution contains the same contradictions and tensions, as had the 1974 Yugoslav constitution, oscillating between a federation and a confederation. Despite these tensions, the FRY did function as a federal state; the absence of clarity over the respective jurisdictions of the federal units and the federal state was balanced

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10 There is presently in Montenegro a significant portion of the population which wishes legal changes between Serbia and Montenegro. According to a recent opinion poll (November 2000), 52.3 percent of the population of Montenegro favors complete independence for its republic. See *Vijesti*, Podgorica, November 23, 2000, at <http://www.vijesti.cg.yu.naslovna>.

11 Nebojsa Cagorovic, “Conflicting Constitutions in Serbia and Montenegro,” *Transition* 3:4 (Prague, March 7, 1997), p. 28.

12 Srdja Pavlovic, “The Podgorica Assembly in 1918: Notes on the Yugoslav Historiography (1919-1970) about the Unification of Montenegro and Serbia,” *Canadian Slavonic Papers* 41:2 (June 1999), pp. 157-176. See also Dimitrije Vujovic, *Ujedinjenje Crne Gore i Srbije* [The Unification of Montenegro and Serbia] (Titograd: Istorijski Institut Crne Gore, 1962), p. 325; and Barbara Jelavitch and Charles Jelavitch, *The Establishment of the Balkan National States, 1804-1920*, vol. 8 (Seattle: University of Washington Press, 1977).

until March of 1997 by the close similarity of the interests between political elites in Serbia and Montenegro. The Montenegrin constitution (1992) was adjusted to accord with the federal constitution, but the Serbian constitution (1990) never was. In fact, the constitution of the FRY was an urgent response to the political vacuum created by the disintegration of the SFRY and was adopted in the aftermath of the diplomatic recognition of Slovenia and Croatia in January 1992.

Legislative power in the FRY is exercised by a bicameral parliament (Federal Assembly) representing the citizens (Chamber of Citizens) and the member republics (Chamber of Republics). According to the federal electoral law, 108 deputies to the Chamber of Citizens are elected from the Republic of Serbia. The Republic of Montenegro (with about 5 percent of the population of the FRY) has safeguarded its interests through a constitutional clause (Article 80), providing it at least 30 federal deputies. The Chamber of Republics consists of 40 deputies, 20 from each republic. This power-sharing agreement was created to avoid the complete domination by Serbia of its junior partner Montenegro. In both republics, federal deputies to the Chamber of Republics were elected by the respective parliaments, taking into consideration the parliamentary representation of political parties as well as independent deputies. In reality, the political party that controls the national parliament also controls the federal parliament. Until the 24 September 2000 elections, the power base of former FRY president Slobodan Milosevic was the Socialist Party of Serbia (SPS). Similarly, Momir Bulatovic's Democratic Party of Socialists (DPS) had a majority in the national parliament of Montenegro until the May 1998 elections. Thus, the federal assembly reflected the balance of political forces in the national assemblies of Serbia and Montenegro. The federal deputies were delegated by the parliaments of their respective republics and were responsible to them.

Federal political power in the FRY is exercised through the relationship between the federal assembly and the federal government, whereby the federal assembly elects the federal government. The Federal Prime Minister is the central figure in the federal government and personifies it. The candidate for this post is proposed by the president of the FRY and has a free hand in selecting the members of the federal government. However, a parliamentary majority in both chambers of the federal assembly must approve the program of the government and the composition of the federal government.

### **THE ROLE OF THE PRESIDENCY IN THE FEDERAL CONSTITUTION**

The president of the republic exercises executive power in the FRY jointly with the federal government, and the federal assembly elects both. Although the constitution holds that the president of the FRY and the federal prime minister should not be from the same republic (Article 97), Serbia has not always respected this rule. The first president, Dobrica Cosic, and the first federal Prime Minister, Milan Panic, were both from Serbia. Zoran Lilic, the president until

15 July 1997 was from Serbia, while Prime Minister Radoje Kontic was from Montenegro. Slobodan Milosevic, who engineered their elections through the SPS and its Montenegrin counterpart, placed all four in power. When Cosic and Panic went beyond the limits defined by Milosevic, they were immediately deposed by the federal assembly, which, at that time, was controlled by the Socialist Party of Serbia and its allies. On 18 May 1998, Milosevic orchestrated the dismissal of the Prime Minister Radoje Kontic and the federal government, which then lost a vote of confidence in the upper house of the Yugoslav parliament. Mr. Kontic had fallen out of favor with Mr. Milosevic by opposing his plan to impose a state of emergency in Montenegro as a way of blocking the inauguration of the new president Milo Djukanovic, a Milosevic critic.<sup>13</sup> Milosevic then picked up Momir Bulatovic as a Federal Prime Minister. The latter had just lost the presidential elections to Milo Djukanovic and was eager to work with his old ally Milosevic to keep Djukanovic in check. During his tenure as a Federal Prime Minister (May 1998 - October 2000), Bulatovic and Milosevic used all means available short of military intervention to undermine Djukanovic and his government. Bulatovic's political loyalty to President Milosevic did not waver throughout Milosevic's presidency. In February 2000 Bulatovic deemed that "President Milosevic was at this moment the best choice to defend the state and national interests of the FRY. Due to the hostility of the international community toward the FRY, we have no alternative but to follow the road chosen by President Milosevic."<sup>14</sup>

Constitutionally, the president of the FRY has rather limited state power in comparison to classical presidential political systems such as the American and the French (not to mention the Russian). Article 96 of the constitution regulates the president's prerogatives. The most important functions of the president are: representing the FRY at home and abroad, calling elections for the Federal Assembly, nominating a candidate for prime minister of the federal government and issuing instruments of ratification for international treaties. Article 136 gives the president of the federation the power to "promote and dismiss officers of the Army of Yugoslavia." Milosevic has used this right very often to purge the Army of allegedly unloyal high-ranking officers. In 1998, Milosevic dismissed Chief of Staff General Momcilo Perisic, who had opposed open confrontation with NATO during the Kosovo crisis. Milosevic conducted a spectacular purge of the federal army in the 1991/1992, when he was the president of Serbia. According to retired admiral Branko Mamula, himself purged by Milosevic, 130 generals and high-ranking military officers were sacked from

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13 On January 14 and 15, 1998, on the eve of president's Djukanovic inauguration, Momir Bulatovic organized and led the demonstrations in Podgorica. The demonstrations led to violence between the supporters of Bulatovic and the police. Bulatovic accused Djukanovic of electoral fraud in the presidential elections.

14 Interview with Momir Bulatovic, "Djukanovic je naivan momak" [Djukanovic is a naive guy], *NIN*, Belgrade, February 24, 2000, p. 17.

the army in 1991/1992.<sup>15</sup> Milosevic's control over the army was assured through the promotion of officers loyal to him (e.g., Generals Nebojsa Pavkovic and Dragoljub Ojdanic), and by control over the defense budget. Milosevic deliberately reduced the influence and strength of the army and built powerful police forces (the Sluzba drzavne bezbednosti, SDZ). Personal authority, however, was the most important building block in Milosevic's pyramid of power, and rested on the formal and informal networks he had built since 1997. As Attila Agh wrote, in the FRY "the real power is concentrated in the hands of an omnipotent president without any 'checks and balances'."<sup>16</sup>

It is important to bear in mind that Milosevic deliberately tailored the constitution of the FRY to fit his personal needs. As long as he was the president of Serbia he wanted the Yugoslav Federation to have a constitutionally and politically weak president. A balanced relationship between the two was not in the autocratic Milosevic's interest. But the situation changed after Milosevic completed his second mandate as president of Serbia in June 1997 and was elected as president of the FRY on 15 July 1997. Barred by the Serbian constitution from seeking a third term as president of Serbia, Milosevic succeeded in getting elected by the federal parliament as president of the FRY, with a four-year mandate. The 138-member Chamber of Citizens of the federal parliament elected Milosevic by 88 votes to 10; the vote in the Chamber of Republics was 29 to 2.

In preparation for assuming the position of president of the FRY, Milosevic had already transferred a group of his most trusted aides from Serbian to federal institutions in spring 1997. These included Zoran Sokolovic (Minister of Internal Affairs) and Nikola Sainovic (Deputy Prime Minister). These appointments show that Milosevic had already reinforced the power of federal institutions without actually changing them.

For Milosevic, the Serbian and FRY presidency became interchangeable institutions. When Milosevic was elected the president of the FRY, political power shifted from the Serbian presidency to the Federal presidency without any institutional changes on the federal level. Milosevic's proxies, directly accountable to him, controlled the Serbian presidency and deprived the parliament of its political autonomy. Thus Milosevic preserved the facade of federalism while assuming de facto dictatorial powers. Milosevic's federal presidency lasted from July 15, 1997 until October 6, 2000. Under his tenure, the FRY de facto lost Kosovo, which became a UN protectorate for an indefinite period of time when the Security Council adopted Resolution 1244 in 1999. As the president of the FRY, Milosevic strained relations with Montenegro to the breaking point. By the summer of 2000, when Milosevic decided to seek a second term as a president of FRY, the Yugoslav federation had become completely dysfunc-

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15 Branko Mamula, "Poslije Milosevicevog sloma" [After Milosevic's downfall], *Monitor* 525 (Podgorica, November 10, 2000), at <http://www.monitor.cg.yu>.

16 Attila Agh, *Emerging Democracies in East Central Europe* (Glos, UK: Edward Elgar, 1998), p. 202.



tional. In a constitutional “coup” engineered by Milosevic on July 6, 2000, the parliament hastily changed the federal constitution (Articles 97 and 98) and adopted a constitutional amendment regarding the procedure for election of the president. The Montenegrin government rejected the constitutional amendments and its Parliament declared them null and void. The parliament’s resolution provided the Montenegrin government with a legal base for refusing to participate in the federal presidential elections held on 24 September 2000. This is the reason why the Montenegrin government does not consider Kostunica the legal president of the FRY.

Milosevic opted for the election of the federal president by direct popular vote in general elections scheduled for September 24, 2000. His intention was to enhance the legitimacy and visibility of the post. A new mandate would allow Milosevic to stay in power for another eight years. The United Nations War Crimes Tribunal in The Hague had indicted Milosevic on 27 May 1999, following the campaign of ethnic cleansing in Kosovo, which he had orchestrated. Staying in power was the safest way for him to avoid extradition and trial in The Hague.

### **SUPREME AND CONSTITUTIONAL COURTS**

Two other relevant institutions established by the federal constitution are the Supreme and Constitutional Courts. The control of the Constitutional Court by Milosevic was revealed on October 4, 2000, when in an apparent attempt to keep Milosevic in power, the Court annulled parts of the contested Yugoslav elections of September 24, 2000. The Court invalidated the presidential elections and ordered new elections. Court president Milutin Srdic said, “a new election should be held before the president’s mandate expires.”<sup>17</sup> This meant that Milosevic should serve out his last year in office and call new presidential election before July 2001. The popular revolt of 5 October 2000 in Belgrade forced the Federal Electoral Commission, which has previously falsified the results of the presidential elections, to recognize Vojislav Kostunica as a winner of the elections. Thus, the decision of the Constitutional Court of 4 October 2000 became null and void. The constitutional manipulations engineered by Milosevic and his stooges demonstrated that the separation of powers between the executive, legislative and judiciary was in fact non-existent in the FRY.

### **CONFLICT AND COOPERATION BETWEEN SERBIA AND MONTENEGRO**

Because of the ethnic, religious and linguistic similarities between Serbs and Montenegrins, one would expect that the new federation would be more harmonious than the previous one, which included six different nations. But

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<sup>17</sup> Philippa Flether, “Serbians Appear to Unseat Milosevic in Popular revolt,” *Reuters*, October 5, 2000.

as Elizabeth Roberts writes, “the distinguishing feature of Montenegrin history is the way it has engendered a dual sense of identity — both Serb and Montenegrin — giving rise to bitter divisions that erupted into civil war previously this century and continue to cast their shadow today.”<sup>18</sup> This division in Montenegro is better known as a division between the *zelenashi* [Greens], the advocates of the Montenegrin independent statehood and the *bjelashi* [Whites], the proponents of unilateral unification with Serbia.<sup>19</sup> Srdja Pavlovic, a historian from Montenegro, argues that the current debate between governing and non-governing elites in Serbia and Montenegro over the identity of Montenegrins and the future of the FRY “greatly resembles the debate that was going on in the early 1920s.” He continues: “Greens and Whites are confronting each other [today] not with books but with political slogans, mass rallies, and arms.”<sup>20</sup> The cultural closeness between the Serbs and Montenegrins makes relations between these two political communities (federal units) very delicate. The political interests of the two are not necessarily or always compatible with their cultural and religious closeness. After World War II many Montenegrins moved to Serbia, particularly to Belgrade, where they occupied high positions in the federal administration. Because of its similarities with the Serbs and its complete integration into Serbian society, the Montenegrin community in Serbia (140,000 according to the census of 1991) is categorically opposed to the independence of Montenegro. It goes the same for the Serbian community living in Montenegro (57,000 people according to the census of 1991). This community is also well integrated into Montenegrin society. It is the author’s view that although Serbians and Montenegrins share many commonalities, they are two distinct nations like, for example, the British and American nations or German and Austrian nations.

Milosevic’s family reflects well this dual identity of many Montenegrins. Milosevic’s father was Montenegrin, but Milosevic himself was born in Serbia and it has made his entire political career in Serbia. His brother Branislav, former FRY ambassador to Russia,<sup>21</sup> declared himself Montenegrin and made his diplomatic career as a cadre from Montenegro, climbing the ranks of League of the Communists of Yugoslavia (LCY).

The conflict of interests between Serbia and Montenegro was preceded by a conflict within the Montenegrin leadership. From 1988 to 1996, two politicians, Momir Bulatovic and Milo Djukanovic, dominated Montenegrin politics. They came to power in Montenegro by staging an internal “coup” in the League of Communists of Montenegro (LCM) in 1989. In January 1989, Milosevic’s

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18 Elizabeth Roberts, “Montenegro,” *The South Slav Journal* 20:1-2 (75-76) (Spring-Summer 1999), p. 9.

19 Ivo Banac, *The National Question in Yugoslavia: Origins, History, Politics* (Ithaca: Cornell University Press, 1992) (1st edition 1984), pp. 270-291.

20 Pavlovic, “The Podgorica Assembly...”

21 Branislav Milosevic was recalled from Moscow in December 2000, after the downfall of Slobodan Milosevic.

supporters in Montenegro organized demonstrations against the local communist leadership, which resigned under pressure from the streets and yielded to those politicians (Bulatovic and Djukanovic) who supported Milosevic's policy of reshaping Yugoslavia along the lines of a tightly centralized federation. Both men were associated with Milosevic's "anti-bureaucratic revolution" and closely cooperated with the Serbian leadership during the disintegration of Yugoslavia. In 1990, the LCM changed its name to the Democratic Party of Socialists (DPS). Momir Bulatovic became the chairman of the party and later the president of Montenegro. Djukanovic was picked up by Bulatovic to be his prime minister. On 12 February 1991, at the age of 29, Djukanovic became the youngest prime minister in Europe. As prime minister Djukanovic served two terms. In 1998 he became the president of Montenegro. The DPS under the leadership of Bulatovic and Djukanovic became a loyal satellite of Socialist Party of Serbia, led by Milosevic.

Cracks between Belgrade and Podgorica that had been carefully hidden during the war in Croatia and Bosnia-Herzegovina appeared in 1996. The new fragile peace in the Balkans has revealed differences between the national interests of Montenegro and Serbia. With war-time solidarity gone, Montenegro realized that Serbia as ruled by Milosevic remained a pariah state within the international community despite the Dayton agreement. Montenegro felt that the "outer wall" of international sanctions imposed on the FRY, banning it from membership in international financial organizations, was harming its own economy and international standing. In response, Montenegro began to display a "Slovenian syndrome" — to use an analogy from the previous Yugoslav Federation — in its relations with Serbia, namely, to press for greater political autonomy from its senior partner. We would argue that the conflict between Serbia and Montenegro strongly resembles the conflict between Serbia and Slovenia between 1987-1991.<sup>22</sup> Like Slovenia and Croatia in 1990/1991, Montenegro initiated a process of dissociation from the federal institutions in 1997. The conflict between Belgrade and Podgorica is primarily political and does not have an ethnic dimension,<sup>23</sup> as was the case with the conflicts in Croatia and Bosnia-Herzegovina. Slovenian President Milan Kucan has recently acknowledged the legitimacy of Montenegro's right to the self-government when he declared that Slovenia "will respect the democratically expressed will of Montenegro."

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22 Fundamental differences developed between Slovenia and Serbia regarding their national interests in the late 1980's, which the SFRY could not resolve. Slovenia at that time was aiming to join European international organizations, a symbol of economic prosperities, while Serbia opted for strengthening its ethnic nation-state (Greater Serbia) through wars and ethnic cleansing. See Reneo Lukic and Allen Lynch, *Europe from the Balkans to the Urals: The Disintegration of Yugoslavia and the Soviet Union* (Oxford: Oxford University Press, 1996), pp. 144-194.

23 Ethnic conflict breaks out when there is a denial of collective rights and identity by one group over another, while political conflict concerns the distribution of power and resources among two or more competing political elites.

In November 2000, while receiving President Djukanovic, Kucan stressed that “10 years ago Slovenia used the right to self-determination,” and that therefore this same right should be recognized for Montenegro.<sup>24</sup> Kucan was one of the first statesmen in the region to insist on the positive correlation between people’s right to self-determination and the establishment of a democratic polity and respect for human rights. In the case of Slovenia, independent statehood went hand-in-hand with membership in international organizations. President Kucan said, “Montenegro must not remain a hostage in Yugoslavia. It has the right to live democratically and become a European state.”<sup>25</sup>

Croatia will also recognize Montenegro as an independent state, if its citizens so decide in a referendum supervised by the international community. The Croatian foreign minister Tonino Picula suggested this possibility when he stated that Croatia became an independent state by urging the international community to respect its right to self-determination, which in his view is “one of the fundamental democratic rights.” Picula thinks that Montenegrins should benefit from the same rights as Croatia did ten years ago.<sup>26</sup>

In 1996, a pro-western faction of the political elite within the Montenegrin ruling party, the DPS, under the leadership of Prime Minister Milo Djukanovic, began openly propounding a different economic and foreign policy from that of the federal government led by the Milosevic puppet, Radoje Kontic. Djukanovic suddenly broke politically and ideologically with Milosevic and Bulatovic to lead the reform-oriented wing within the socialist party. In contrast to Bulatovic (then DPS chairman, Montenegrin president and Milosevic’s closest ally), Djukanovic almost overnight adopted western values and came to lead a new generation of young technocrats. Zeljko Ivanovic, an independent journalist from Montenegro, offered the following explanation of the sudden political transformation of Milo Djukanovic:

Thanks to his frequent contacts with foreign diplomats and officials, he [Djukanovic] realized that stubborn defiance and nose-thumbing at the world powers, the trademarks of Milosevic and his yes-men, amounted to a masochistic and suicidal policy. Thus, for purely pragmatic reasons, Djukanovic decided to change his tune and put an angel’s mask over his tarnished face.<sup>27</sup>

Djukanovic’s prime objective was the economic development of Montenegro through cooperation with and eventually integration within Western European international organizations such as the European Union, the Council of Europe and others. Djukanovic presented Montenegro’s new orientation in following terms: “Europe is our only possible choice. This country can only

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24 Quoted by Esad Kocan, “Slovenia na Jugu” [Slovenia in the South], *Monitor* 527 (Podgorica, November 24, 2000), at <http://www.monitor.cg.yu>.

25 Quoted by Anthony Lewis, “Five Minutes to Midnight,” *The New York Times*, August 12, 2000, at <http://www.nytimes.com/library/opinion>

26 Quoted by *Vijesti*, Podgorica, February 3, 2001, at <http://www.vijesti.cg.yu>

27 Zeljko Ivanovic, “Reform as Expediency,” *Transitions* 5:3 (Prague, March 1998), p. 56.

have a future if it follows that road. Our place is in Europe, both geographically and historically, we belong to European civilization, and we have to remain a part of it, economically, politically and culturally.”<sup>28</sup> While Bulatovic supported Milosevic’s hard-line policy towards neighbors even after the signing of the Dayton agreement, Djukanovic advocated speedy normalization of diplomatic relations with former Yugoslav republics, now independent states. Between 1998 and 2000, Montenegro’s government considerably improved relations with Croatia (opening the border crossing at Debeli Brijeg and the Croatian Council in the town of Kotor) and also with Slovenia. The latter represented informally the interests of Montenegro at the UN Security Council. During the June 2000 Security Council session that discussed the situation in the Balkans, the Slovenian mission in the Security Council distributed to the other members a document entitled, “Montenegro and the Balkan crisis.”<sup>29</sup> The document was presented as a “non-paper” (i.e., it did not have the status of an official document, but the Security Council chairman brought it to the attention of other members at the beginning of the session). In this document, the Montenegrin government denied the legitimacy of the FRY providing diplomatic representation for the interests of Montenegro in the U.N. and other international organizations.

At the end of 1996 Djukanovic argued that Montenegro should distance itself from Serbia in both foreign and economic policy. In December 1996 the Serbian government, in an apparent attempt to mute the unrest caused by its cancellation of election results, decided to pay pensions, salaries, student grants and social welfare that had been in arrears. Prime Minister Djukanovic and his economic advisers feared that such payments could be made only by printing more money without the reserves to back them. This in turn could trigger a disastrous hyperinflation, as in 1993. Should hyperinflation return, Djukanovic threatened, Montenegro would introduce its own national currency, the *per-per*.<sup>30</sup> However, Djukanovic’s main offence was that he dared to express open criticism of Milosevic. According to Djukanovic, the international image of Milosevic was so bad that his election as president of the FRY could only further damage the interests of the Yugoslav federation, and thus of Montenegro. Djukanovic and his economic advisers realized that Milosevic’s alliance with the hardliners in *Republika Srpska* in Bosnia-Herzegovina, and the growing violence in Kosovo fueled by Milosevic and his entourage, threatened to keep the FRY excluded from support of western financial institutions such as the International Monetary Fund and the World Bank for the indefinite future.

The long-simmering conflict over politics and personalities between Djukanovic, on the one-side, and Bulatovic and Milosevic on the other came to a

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28 Milo Djukanovic, “Strategic Initiatives of the Federal Republic of Yugoslavia — Fundamentals for a New Beginning,” *Document*, Podgorica, April 3, 1998, at <http://www.montenet.org/mnews/osnoveeng.htm>.

29 “Montenegro and the Balkan Crisis,” at <http://www.mnews.net>.

30 Lukic, *Rethinking the International Conflict*, p. 146.

head in March 1997. Djukanovic made this rift public after he realized that his faction within the DPS could not impose its views over those of Bulatovic's wing, which still dominated the party's upper echelons. By going public, Djukanovic took a considerable political risk. As expected, he immediately became a target of the Milosevic-controlled Belgrade media. Surprisingly, he survived the first attempt by Milosevic and Bulatovic to eliminate him politically. During his protracted battle with Milosevic and Bulatovic, Djukanovic won significant support within the DPS and even among the opposition Liberal Party led by Slavko Perovic and the Popular Party of Novak Kilibarda. Djukanovic's resistance was supported by independent media in Belgrade and also by the Serbian opposition organized in the *Zajedno* coalition. On 24 June 1997, at a meeting of the Main Board of the DPS, 56 of 97 members supported Milosevic's candidacy for the presidency of FRY; 10 abstained and 31, led by prime minister Djukanovic, voted against Milosevic. Although Djukanovic lost this political battle with Bulatovic and Milosevic, he managed to retain a high profile in Montenegro. In the summer of 1997 Djukanovic decided to challenge Bulatovic in the presidential elections scheduled for October 1997. During the presidential campaign, Djukanovic sought to build up his image as a "modernizer" and a "technocrat," who could make use of his international contacts to salvage Montenegro's sinking ship. Bulatovic's campaign rhetoric drew on the symbols and traditions of Serbian nationalism, which British analyst Robert Thomas has named a "strategy of national puritanism."<sup>31</sup> Bulatovic portrayed Djukanovic as a blackmarketeer whose wealth came from the trafficking of cigarettes.

The first round of the presidential elections in Montenegro took place on October 6, 1997. The rate of participation was 67.38 percent. According to the official results released by the Republic Election Board, the incumbent president Momir Bulatovic received the plurality of votes: 147,615 or 47.45 percent. Bulatovic's challenger, Djukanovic, received 143,348 or 46.72 percent. As neither candidate won an absolute majority, a second round of voting was held on October 21. In the second round Djukanovic won 174,176 votes and Bulatovic 168,864. A victory based on such a slim majority foretold a difficult presidency for Djukanovic.<sup>32</sup>

### DJUKANOVIC VERSUS MILOSEVIC (1998-2000)

After becoming president of Montenegro, Milo Djukanovic sought to consolidate his power. Between January and May 1998, his main task was to mobilize his supporters for the forthcoming parliamentary elections in Montenegro,

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31 Robert Thomas, *The Politics of Serbia in the 1990's* (New York: Columbia University Press, 1999), p. 379.

32 "Elections in Montenegro," *Review of International Affairs* 1061 (Belgrade, October 15, 1997), p. 40.

scheduled for May 31. Meanwhile, a split occurred within the Democratic Party of Socialists. Bulatovic created the new Socialist People's Party (SNP), while Djukanovic's wing retained the party name. Later, in preparation for the parliamentary elections, Djukanovic formed a coalition named "For a Better Life" (DZB). It was a coalition of three parties: The Democratic Party of Socialists (DPS), People's Party (NS), and Social Democratic Party (SDP). As the leader of this pro-reform coalition Djukanovic portrayed himself as a political alternative to the Milosevic's coalition. In order to increase Bulatovic's visibility and that of his new party in Montenegro, Milosevic appointed Bulatovic to the post of federal Prime Minister in May 1998.

In the parliamentary elections held on May 31, the "For a Better Life" coalition won 42 of 78 seats in the National Assembly of Montenegro, while the Socialist People's Party won 29. Having won the parliamentary elections, the DPS candidate should have held the post of federal prime minister. Instead, as we mentioned earlier, President Milosevic chose the loser, Momir Bulatovic, for this post, whose party, SNP, went into opposition. The DPS considered Bulatovic's appointment unconstitutional. From that moment on, the Montenegrin government and President Djukanovic refused to acknowledge the legitimacy of the federal institutions; thus the federation became dysfunctional. This is the root of the conflict between the coalition "For a Better Life" and President Milosevic.

Djukanovic's double victory represented the most serious challenge to Milosevic's rule since he had become president of the FRY. When asked what he thought about the FRY president, Djukanovic stated that:

There are two opposing concepts in Yugoslavia. There is the one that I stand for — full democratization — which undermines the other concept, that of the charismatic leader. I stand for radical economic change and privatization, an open state toward the world. As opposed to this, Milosevic's option is marked by the strong autocratic personality, quite counterproductive. Time is on my side.<sup>33</sup>

Under Djukanovic's leadership, Montenegro wanted to assume important state competencies at the expense of the federal institutions. This political strategy was forced upon Montenegro by the openly hostile attitude of Milosevic and the Montenegrin elite led by Bulatovic. Milosevic considered the federal state to be in the service of Serbian state interest. He simply ignored Montenegro's attempts to carve out separate interests, to which it was entitled as an equal member of the federation.

The "cohabitation" between Milosevic and Djukanovic was uneasy, particularly after the Montenegrin government submitted to the federal government a document, "The Basis for defining the New Relationship between Mon-

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<sup>33</sup> Interview with Milo Djukanovic, "Leader may begin new wave in Balkan," *The Globe and Mail*, Toronto, October 24, 1997.

tenegro and Serbia,” the aim of which was to restructure the FRY and radically transform it into an asymmetric federation with elements of confederation. This document, also called the “Platform,” contained many legal provisions similar to the proposal submitted by Croatia and Slovenia in October 1990.<sup>34</sup> The proposal called for the creation of “two sovereign states” linked by a common currency and the exercise of some joint responsibilities in defense and foreign affairs. The sovereignty of the republics as defined in the “Platform” implied the exercise of internal sovereignty only. This is why the proposal envisaged the preservation of a *single* state, with one U.N. seat. The FRY, the document suggested, should be renamed the “Association of the States of Serbia and Montenegro.” The “Platform” was presented on 5 August 1999, after NATO’s occupation of Kosovo. At that moment the FRY was in complete international isolation and the Montenegrin initiative was a desperate attempt to escape the sinking ship. The federal government and Milosevic completely ignored this document and did not bother to reply.

From that moment, the Montenegrin government has accentuated its strategy of dissociation with regard to the federal institutions. Learning from Croatian and Slovenian experiences, the Montenegrin government and parliament decided not to adopt a formal Declaration of Sovereignty or to proclaim outright independence, since these legal steps would have triggered open military intervention by the VJ (Vojska Jugoslavije). Instead, the Montenegrin leadership opted for an indirect approach, or as some analysts have called it, “creeping independence.” The aim of this strategy was the gradual build-up of a nation-state. In two years Montenegro has succeeded in taking over most of the functions of federal institutions and according to President Djukanovic the federal state is now present on the territory of Montenegro only through the presence of the VJ and air-control.<sup>35</sup> President Kostunica recognized this reality when he stated that Montenegro is practically not under the sovereignty of the FRY.<sup>36</sup> The Montenegrin government has taken over the monetary and banking system, foreign trade, customs and taxation. Montenegro did not introduce its own currency *perper*, as it threatened in 1996, but it introduced on November 2, 1999, the German *Mark* as a parallel currency to the Yugoslav *dinar*, thus reducing the influence of the Yugoslav Central Bank on its economy. On November 13, 2000, the *dinar* was completely withdrawn from circulation in Montenegro, and the DM is now used for all payments and transactions and thus serves as the official currency. This means that a Yugoslav unified market and monetary union has ceased to exist. Other attributes of sovereign polity have been taken as well, such as control of the customs regime, creation of a distinct visa regime, and internal security. In order to neutralize the intimidations com-

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34 Lukic and Lynch, *Europe From the Balkans to the Urals*, pp. 169-173.

35 *Vijesti*, Podgorica, November 22, 2000, at <http://www.vijesti.cg.yu>.

36 “Necu završiti kao Gorbacov” [I will not end-up like Gorbachev], Interview with president Kostunica, *Vreme* 519 (Belgrade, December 14, 2000), at <http://www.vreme.com/519>.



ing from the federal army, the Montenegrin government has built-up a police and paramilitary force of some 20,000 men to counter the 14,000 federal army troops based in Montenegro, along with 900 Milosevic and Bulatovic loyalists in the 7th Military Police Battalion.

On 2 October 1999 the Montenegrin parliament passed a Law on Citizenship creating a new legal category of citizenship distinct from that of the FRY. The law grants Montenegrin citizenship to individuals either on the basis of parental citizenship (*jus sanguinis*) or place of birth (*jus soli*).

To defend the acquired attributes of sovereignty threatened by the federal government, Montenegro has also relied heavily on the support of the international community (European Union, U.N., NATO and U.S.). In the aforementioned document "Montenegro and the Balkan Crisis," the Montenegrin government argued that Montenegro should have access to International political and financial institutions in order that it can achieve positive change despite the existing barriers. In this way, Montenegro could represent a positive model for democratic struggle and pro-democracy forces in Serbia. When the conditions are ready, this could lead to an agreement with democratic Serbia on the shape and content of future relations, which would be most acceptable for the peoples of these two countries, for peace, stability of the region and the whole Europe.<sup>37</sup>

The gradual take over of the functions of the federal state on the territory of Montenegro has created a situation of Montenegrin semi-independence, which the current FRY leadership is not willing to concede. These are, as Montenegrin politicians used to say, the "acquis" of sovereignty that the new leadership in the FRY and in Serbia has to accept. While building a democratic polity, Montenegro has made real progress in the area of human rights, protecting the rights of minorities — both ethnic and religious — and in building a civil society. It would be fair to say that Montenegrin society to its credit has become in the last four years a distinct society from that of Serbia, which is after 13 years of Milosevic's rule at the very beginning of the process of democratization.

#### **THE RELATIONS BETWEEN MONTENEGRO, SERBIA AND THE FEDERAL AUTHORITIES AFTER THE OUSTER OF MILOSEVIC**

President Kostunica has stated on many occasions that one of his main priorities is to restructure the federal state and accommodate Montenegro. In his interview with the Serbian daily *Politika*, Kostunica said that Serbia and Montenegro should stay together because "every link that connects Serbia and Montenegro historically, spiritually and culturally, is stronger and deeper than what divides them."<sup>38</sup> Kostunica envisages the adoption of a new federal con-

<sup>37</sup> "Montenegro and the Balkan Crisis," at <http://www.mnnews.net>.

<sup>38</sup> Interview with Vojislav Kostunica, "Drzava po volji naroda" [The state according to the will of the people], *Politika*, Belgrade, December 30, 2000, p. 1.

stitution to get rid of the current bogus federalism and, in more general terms, of Milosevic's political legacy. In Kostunica's view, the new constitution will give a clean slate to the federal state and will enshrine a new federal arrangement between Montenegro, Serbia and the federal government. According to Kostunica, the Union between Serbia and Montenegro should have a single legal personality in international relations and one seat in the U.N. The Union should also have a joint federal government and the president, a single army, a single currency and common foreign policy. These are, in Kostunica's words, "the minimal standards of a federal state." These views were expressed in the "Platform," authored by Kostunica and Djindjic and formally approved by the DOS. The "Platform" was formally proposed to the Montenegrin government on January 10, 2001, and thus represents the official view of the federal government and the Serbian government in the negotiations with Montenegro. Kostunica wants to build a strong federal state (*Bundesstaat*), reminiscent of American or German federalism. The question is whether Montenegro with its strong state tradition is ready to accept this brand of federalism. Kostunica's vision of the federal state, in its ideal version, may look like Canadian federalism with Montenegro playing the role of Quebec or British Columbia (two politically "incorrect" Canadian provinces). The new federal state should change its name and abandon any reference to Yugoslavia. Kostunica asserts, and on this point he is in agreement with President Djukanovic, that the "Yugoslav idea" is dead, and that it lost any meaning when two constitutive nations, the Slovenes and Croats, succeeded from the "second Yugoslavia."<sup>39</sup> The new name of the federal state should make explicit reference to the Union or Commonwealth of Serbia and Montenegro. If the citizens of Montenegro accept Kostunica's vision of the federal state, a big carrot, namely a quick entry into European international organizations and a place in the European Union, awaits them. This promise was in turn made to Kostunica at the Zagreb summit of the European Union in November 2000 in Croatian capital, Zagreb. Kostunica went on say "if we stay together, all doors in Europe will be open to us." If not, and Kostunica brands a stick, "if we separate in an ugly way, with enormous problems, many new questions will be opened and the whole region will be jeopardized."<sup>40</sup>

The positions of President Djukanovic and Montenegrin government concerning a new union are quite different in content and in form from those of Kostunica and the DOS (Democratic Opposition of Serbia). The Montenegrin side initially favored direct negotiations between Serbia and Montenegro, thus bypassing the federal president and the federal government. The Montenegrin government wants Serbia and Montenegro to constitute themselves into two independent sovereign states subject to international law before entering into

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39 Interview with Vojislav Kostunica, "U novi vek s uredjenom drzavom," [In a new century with a well settled state], *Glas Javnosti*, Belgrade, December 7, 2000, at <http://www.glas-javnosti.co.yu>.

40 *Politika*, Belgrade, December 30, 2000, p. 1.

negotiations on restructuring the federal state. In addition, Serbia and Montenegro should have two seats in the UN and separate memberships in international organizations. According to President Djukanovic "an independent Montenegro does not exclude the possibility of forming a union with Serbia. This initiative means a contribution to the improvement of our relationship with Serbia, and therefore an improvement of regional stability."<sup>41</sup> Kostunica and Djindjic received these two demands, separate statehood and a separate membership in the international organizations, with hostility. In reality, Montenegro wants a *Staatenbund* with Serbia; i.e., a confederation with some elements of federation. President Djukanovic wants the new Union between Serbia and Montenegro to have only three functions in common: defense, monetary policy and foreign affairs. These demands were presented to the citizens of both federal units, by the Montenegrin government, on 28 December 2000. The new platform of the Montenegrin government, entitled "The platform concerning the essence of the new relations between Montenegro and Serbia,"<sup>42</sup> represents the official position of the Montenegrin government for the forthcoming negotiations with Serbian government and the federal presidency. At the end of the negotiation process between the two federal units, Montenegro will organize a referendum to seek approval for an agreed solution, or, if the negotiations fail, to seek independence. The formal negotiations about restructuring the federal state started on 17 January 2001. The first negotiating session between Kostunica, Djukanovic and Djindjic was inconclusive. Both sides clung to their respective "Platforms."<sup>43</sup>

The first casualty of the "Platform" was the stability of the Montenegrin coalition government. The Peoples Party (NS), which was a member of the coalition "For a Better Life" from its inception, left the government and joined the opposition. The People's Party refused to support the "Platform" and has boycotted work on drafting new legislation for a referendum to be organized, after the agreement on constitutional restructuring of the FRY is signed, between Belgrade and Podgorica. Dragan Soc, the chairman of the People's Party and the former Minister of Justice, wanted the government to cling to the "old Platform," which was submitted to the federal government and to Milosevic on August 5, 1999. With the People's Party out of government, the polarization of political parties in the Montenegrin parliament over future ties with Serbia and the federal government was complete. Two of them, the People's Party and the Socialist People's Party (SNP), rejected the "Platform" of the Montenegrin government, and now both of them support the "Platform" that President Kostunica and DOS offered to Montenegro. Three political parties: the Democratic Party of Socialists (DPS), the Social Democratic Party (SDP), and the Liberal

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41 "Montenegro's Djukanovic digs in heels on independence despite US opposition," *AFP*, February 6, 2001, at <http://sg.dailynews.yahoo.com>.

42 *Vijesti*, Podgorica, December 29, 2000, at <http://www.vijesti.cg.yu>.

43 Carlotta Gall, "What's Ahead in Yugoslavia: 3 Men, More Plans and Many Issues," *The New York Times*, January 18, 2001.

Party (LSCG), have all accepted the “Platform” of the Montenegrin government as a basis for negotiations with Serbia and the federal government.

### **THE RESULTS OF THE PARLIAMENTARY ELECTIONS (APRIL 22, 2001)**

Thus, early elections to the National Assembly of the Republic of Montenegro was the only way out to break the political jam caused by the disintegration of the ruling coalition “For a Better Life.” The National Assembly was dissolved in February 2001, followed by a call for new elections (April 2001). The election campaign was characterized by a narrow focus on the central question of Montenegro’s legal status and the future of the federal state. This crucial question mobilized 82 percent of eligible voters, who took part in the elections held on April 22, 2001. The DPS and SDP considered the elections to be a rehearsal for the referendum to follow a few weeks later.

A total of 16 parties and coalitions registered candidate lists. The major contestants in this election were the following pro-independence and pro-federation blocks respectively: (1) the “Victory for Montenegro” coalition of the DPS and SDP; and (2) the “Together for Yugoslavia” coalition of the NS, the Socialist People’s Party (SNP) and the Serbian People’s Party (SNS). Individually registered parties took a more radical stance on each side of the pro-independence/pro-federation divide, shadowing the coalitions. The Liberal Alliance of Montenegro (LSCG) was committed to unqualified independence while the newly formed People’s Socialist Party (NSS), an offshoot of the SNP representing former Prime Minister of FRY Momir Bulatovic, was strongly pro-federation.<sup>44</sup>

The pro-independence coalition “Victory for Montenegro” led by President Djukanovic won the election. However, the margin of the victory was very narrow. In addition, Djukanovic’s coalition failed to win an outright majority. This result came as a surprise. Svetozar Marovic, a vice-president of the DPS, expected that the pro-Yugoslav block would not win more than 30 percent of the votes.<sup>45</sup> The real winner of this election was the pro-independence Liberal Alliance (LSCG), which found itself in the position of a guarantor of political stability. The “Victory for Montenegro,” in order to form a government, needs the support of the LSCG. The complete results of the election are shown in the following table:

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44 *Republic of Montenegro/Federal Republic of Yugoslavia, Parliamentary Elections 22 April 2001*, OSCE/ODIHR Election Observation Mission Report (Warsaw, June 12, 2001).

45 Interview with Svetozar Marovic, *Monitor* 548 (Podgorica, April 20, 2001), at <http://www.monitor.cg.yu>.

**Results of Parliamentary Elections, April 22, 2001**

| Political Party or Coalition                               | For/Against<br>Independence | Votes Won  | Seats <sup>1</sup> | Special<br>Constituency <sup>2</sup> | Total<br>Seats |
|--|-----------------------------|------------|--------------------|--------------------------------------|----------------|
| Victory for Montenegro<br>(DPS + SDP)                      | For                         | 42         | 33                 | 3                                    | 36             |
| Liberal Alliance of Montenegro<br>(LSCG)                   | For                         | 7.8        | 6                  | –                                    | 6              |
| Together for Yugoslavia<br>(SNP + NS + SNS)                | Against                     | 40.6       | 33                 | –                                    | 33             |
| People's Socialist Party (SRS)                             | Against                     | 2.9        | –                  | –                                    | –              |
| Serbian Radical Party                                      | Against                     | 1.2        | –                  | –                                    | –              |
| Democratic Union of Albanians                              | For                         | 1.2        | –                  | 1                                    | 1              |
| Democratic League in Montenegro<br>[ethnic-Albanian party] | For                         | 1          | –                  | 1                                    | 1              |
| Others   |                             | 3.3        | –                  | –                                    | –              |
| <b>Total</b>   |                             | <b>100</b> | <b>72</b>          | <b>5</b>                             | <b>77</b>      |

Source: *Republic of Montenegro/Federal Republic of Yugoslavia, Parliamentary Election April 22, 2001*, OSCE/ODIHR Election Observation Mission Report, Warsaw, June 12, 2001. See also "Montenegro: Resolving the Independence Deadlock," *ICG Balkan Report*, no. 114, Podgorica/Brussels.

Notes: 1- The threshold to gain seats in Parliament was three percent of the total ballot cast.  
2- Special five-seats constituency covering areas where ethnic Albanians form a majority.

According to the OSCE/ODIHR Election Observation Mission Report, the election "was conducted generally in accordance with OSCE commitments for democratic elections and the Council of Europe standards."<sup>46</sup> Although the coalition "Together for Yugoslavia" was defeated, its leaders were satisfied with the outcome of the election. Together with President Kostunica and Prime Minister Djindjic, they submitted, in August 2001, a new platform to the coalition "Victory for Montenegro" to reform the federal state. The new platform is almost identical to that presented by Kostunica and DOS in October 2000. On August 28, the foreign minister of Montenegro notified to his counterpart Goran Svilanovic that he and his ministry, following a decision of Montenegrin Government, have cut off all contacts with the Federal Ministry of Foreign Affairs.<sup>47</sup> The election results have shown that popular support for Montenegro statehood and independence is well and alive. This support has grown considerably from an estimated 15 percent of the population in the aftermath of the creation of the FRY in 1992 to approximately 55 percent in 2001.<sup>48</sup> Presently, the most important point of contention between the two political blocks, "Victory

46 Republic of Montenegro/Federal Republic of Yugoslavia, Parliamentary Elections 22 April 2001.

47 *Vijesti*, Podgorica, August 28, 2001, at <http://www.vijesti.cg.yu>.

48 Janusz Bugajski, "The Case for Montenegro Independence," at <http://www.csis.org>.

for Montenegro” and “Together for Yugoslavia” is the referendum law. The pro-Yugoslav parties have threatened to boycott a referendum unless the DPS agrees to form a “concentration government” including representatives of the SNP. Predrad Bulatovic, a leader of the SNP, after the meeting with Djukanovic, stated that certain preconditions must be met before the referendum can be held, such as fair media coverage, the role of police and problems with the electoral rolls.<sup>49</sup>

### THE IMPACT OF MONTENEGRO’S INDEPENDENCE ON KOSOVO

Serbia and the federal government are afraid that independence for Montenegro will open the way to independence for Kosovo. The U.N. Security Council resolution 1244 refers to Kosovo as part of the FRY, and not of Serbia. Thus Kostunica and Djindjic fear that the international recognition of Montenegro will lead to the formal disintegration of the FRY and the subsequent loss of Kosovo. Serbian political parties in power and in opposition want to avoid at any cost a situation whereby Albanians from Kosovo could find themselves able to convince the international community to terminate the U.N. protectorate over Kosovo.

The Bush administration recently stated that “Kosovo is not ready for independence or for any degree of control by the new, democratic government in Belgrade.”<sup>50</sup> The linkage between the fates of Montenegro and Kosovo is vigorously rejected by President Djukanovic. In a speech at a conference in Brussels on February 26, 2000, dedicated to Montenegro, Djukanovic stated that “it would be politically immoral and unjust to tie the destiny of a people, in this case the people of Montenegro, to this regional problem for which no one has a solution at this time.”<sup>51</sup>

To accommodate Montenegro and other players in the present constitutional crisis, Miodrag Isakov, the chairman of the Reformist party of Vojvodina (a member of the DOS), has suggested that Serbia and the federal government accept the Montenegrin “Platform.” Isakov proposes that the constitutional changes requested by the Montenegrin government should be met by Serbia and the federal government and should be codified in the new federal constitution. However, he insists that Montenegro should wait 2-3 years, (with international recognition), hoping that during these years Kosovo’s legal status will be sorted out. Isakov went on to say “at this moment Serbia does not fulfill the conditions for international recognition, because no one knows what the borders of Serbia are today, and because of the unsettled legal status of Kosovo.”<sup>52</sup>

49 *Vijesti*, Podgorica, August 21, 2001, at <http://www.vijesti.cg.yu>.

50 David E. Sanger, “Bush, in Kosovo, Tells U.S. Troops Role is Essential,” *The New York Times*, July 25, 2001.

51 Quoted by International Crisis Group, “Montenegro: Settling for Independence ?,” March 28, 2001, Report no. 107, Podgorica/Brussels, p. 19, at <http://www.intl-crisis-group.org>.

52 *Vijesti*, Podgorica, January 9, 2001, at <http://www.vijesti.cg.yu>.

Veton Surroi, editor of the Kosovo daily *Koha Ditore*, proposed a similar idea. Surroi wrote, "I've suggested before that the final act in the disintegration of former Yugoslavia could be played out in 'a Taiwan scenario', in which all three states, going through a process of internal consolidation, will necessarily focus more on the function of the state than on its international recognition."<sup>53</sup> The current political strategy of mainstream Kosovo Albanian leaders such as Ibrahim Rugova is to participate actively in the build-up of Kosovo institutions, as undertaken by the UNMIK administration. As long as the UNMIK administers Kosovo, not a single state will recognize a unilateral declaration of independence announced by Kosovo's political parties. Albanian President Majdani thinks that Kosovo could become an independent country when it joins "the European Union together with other Balkan states."<sup>54</sup>

### INTERNATIONAL DIMENSION OF THE CONSTITUTIONAL CRISIS IN THE FRY

Until December 2000 it looked like the two-sided negotiations between Montenegro and Serbia (the Djukanovic approach), or the three-sided negotiations, involving Montenegro, Serbia and the federal government (Kostunica's approach), would decide the future of the federal state. Since then a new actor has emerged, namely the U.N.'s Kofi Annan, whose main concern is how to resolve the status of Kosovo; he suggested on December 21, 2000 that a U.N. sponsored conference be held in the year 2001 about the constitutional restructuring of the FRY. Mr. Annan suggested that the FRY should be transformed into a confederation, encompassing Serbia, Kosovo and Montenegro.<sup>55</sup> A similar proposal was put forward a few weeks ago by Carl Bildt, Mr. Annan's special appointee for the Balkans. President Kostunica and Branko Lukovac, in charge of Montenegrin diplomacy, have both rejected out of hand Mr. Annan's proposal, though for different reasons. Kostunica wants to preserve Milosevic's legacy with regard to Kosovo. In 1989 Milosevic abolished Kosovo's constitutional autonomy as defined in the 1974 Yugoslav constitution. He then created a unitary Serbian state enshrined in the Serbian constitution of 1990. Kostunica does not want a new federalization of Serbia. In March 2000, few months before becoming the president of the FRY, Kostunica stated that "the idea of a federal Serbia is a dangerous one. We have had some legal precedents, which allowed the break down of the federation [SFRY] ... Our party [DSS] is advocating the creation of a state composed of the regions, which should have strong elements of self-rule. Some regions may have a higher degree of self-rule than

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53 Veton Surroi, "Kosova Priorities," *Institute for War and Peace Reporting*, BCR No. 209, January 15, 2001, at <http://www.iwpr.net>.

54 "Kosovo ce postati nezavisno u procesu integracije u EU" [Kosovo Will Become Independent Through the Process of Integration into EU], *Vijesti*, Podgorica, August 22, 2001, at <http://www.vijesti.cg.yu>.

55 *Glas Javnosti*, Belgrade, December 21, 2000, at <http://www.glas-javnosti.co.yu>.

others.”<sup>56</sup> In the same article Kostunica lumped together the following politicians; Nenad Canak, a chairman of the Vojvodina Assembly and the chairman of the League of Social Democrats of Vojvodina, and the author of the document “Vojvodina Republic”; Milo Djukanovic, and Slobodan Milosevic, saying “all three are interested in having maximum power on limited territory.”<sup>57</sup> Basically, Kostunica accused them of being power-hungry and harboring a political culture of the mediaeval lords, thus encouraging the atomization of the FRY. Canak is one of most respected opposition leaders in Serbia and a strong supporter of the federalization of Serbia.<sup>58</sup> He advocates the creation of five republics in Serbia: Vojvodina, Kosovo, Sandzak, Sumadija and Beograd. Canak and his party do not support Kostunica’s “Platform.” At the Meeting of the DOS held on 14 January 2001, Canak’s party abstained from the vote on Kostunica-Djindjic “Platform.”

Kostunica’s “Jacobin” concept of the state is at odds with constitutionally defined decentralization as advocated by Canak and Djukanovic. Kostunica seems to favor for Serbia, and perhaps for the new federal state, the French administrative division of territory into “departments” and “cantons.” In my view, however, this cannot be a solution for governing multiethnic Serbia, let alone the FRY. The regionalization of Serbia, if this means its “departmentalization,” is not the proper answer for managing its heterogeneity. It is rather the Swiss model of decentralization that Serbia should follow.

Branko Lukovac, in rejecting Mr. Annan’s proposal for a three-sided confederation, wanted to dissociate Montenegro’s future from that of Kosovo. The latter risks remaining a permanent crisis spot in the region, for years to come.

### THE ATTITUDE OF THE UNITED STATES TOWARD MONTENEGRO’S INDEPENDENCE

Since 1997 the United States has provided to Montenegro considerable political and economic aid. While Milosevic was in power the U.S. supported Montenegro, which was seen as a democratic alternative to the authoritarian Milosevic regime. After Milosevic was removed from power, the Bush administration opted for the policy of “democratic Montenegro within a democratic Yugoslavia.” Thus, the U.S. now opposes the independence of Montenegro. It is rather ironic that after Serbia voted Milosevic and his cronies out of power, the international community believes that the Montenegro “way” should now

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56 Batic Bacevic, “Severna liga” [Northern League], *NIN*, Belgrade, March 2, 2000, p. 22.

57 Ibid.

58 On August 20, 2001, representatives of the leading political parties and NGOs in Vojvodina adopted a “platform” to facilitate the restructuring of relations between Vojvodina and Serbia. The “platform” calls for the adoption of the new constitution of Serbia, in which Vojvodina will enjoy a high level of political autonomy similar to that which it had in the 1974 Constitution of the SFRY. *Pobjeba*, Podgorica, August 21, 2001, at <http://www.pobjeba.co.yu>.



end, and merge with the Serbian road to a democratic polity, in order to build together a new federal state. Joseph R. Biden, Senator from Delaware (D) and chairman of the Senate Committee on Foreign Relations, disagrees with the Bush administration and the EU on the issue of a Montenegro referendum on independence. Biden thinks that “the idea of a plebiscite, the idea of a vote on independence in Montenegro” will not be “per se an absolute, total disaster.” He added, “I think we have become, as we Catholics say, more catholic than the Pope on Montenegro.”<sup>59</sup>

In fact, as Biden’s declarations suggest, Montenegro has found some of its greatest supporters in the U.S. Congress. The Congress has earmarked or recommended substantial aid to Montenegro over the past few years: \$41 million in Fiscal Year (FY) 1999 and \$42 millions in FY 2000. For FY 2001, the estimates are that Montenegro will receive around \$89 million of aid. The House Appropriations Committee, in its report about the FY 2002 foreign operations appropriations bill (passed July 10, 2001), has “strongly supported” aid to Montenegro and has recommended that the Bush administration provide \$60 million worth of aid to the Republic.<sup>60</sup>

## CONCLUSION

The roots of the present constitutional crisis between Serbia and Montenegro go back to the years 1996/97, when the consensus between the two national elites who created the FRY was broken. The conflict of interests between Serbia and Montenegro, and the conflict of personalities (Milosevic versus Djukanovic), are the main causes of the present crisis. We emphasized the primacy of conflicting interests because the conflict between the two federal units continues even after the ouster of Milosevic. The rhetoric today in Serbia among the political establishment and media with regard to the Montenegrin drive towards independence is hostile, as it was during the 1980’s when Slovenia began its drive towards independence. For the Serbian media the main culprit responsible for the bad state of Serbian-Montenegrin relations is a “secessionist leadership in Podgorica,” led by President Djukanovic. This negative image of the Montenegrin leadership in Serbia did not change considerably even after Milosevic’s departure from political life.

From 1997 on Montenegro has chosen, like Slovenia 10 years before, the road to Europe as its economic future. Serbia, by contrast, has been in conflict with the Atlantic community since 1991, and its exclusion from Europe, after

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59 “The Crisis in Macedonia and U.S. Engagement in the Balkans,” *Hearing before the Committee on Foreign Relations*, United States Senate, 107th Congress, June 13, 2001, p. 44, available at <http://www.access.gpo.gov/congress/senate>.

60 Steven Woehrel, “Montenegro and U.S. Policy,” *CSIS U.S.-Montenegrin Policy Forum - Eastern Europe Program*, July 20, 2001, at <http://www.csis.org>.

the indictment of Milosevic by The Hague tribunal, became definitive. For Montenegro's long-term interests this position became untenable and a possible future stumbling block.

The future of the FRY is presently on the negotiating table, and the Serbian and Montenegrin political elites are discussing it passionately. Vojislav Kostunica and Milo Djukanovic, the respective presidents of FRY and Montenegro, have both publicly stated that the creation of a new state(s) is a real possibility. Unlike Milosevic, who possessed a near absolute determination to use force to preserve the communist federation, Kostunica has promised a democratic and peaceful solution to the present constitutional crisis between Serbia and Montenegro over the common state's future, in spite of his sometimes threatening rhetoric (see note 3).

The persistence of differences between Serbia and Montenegro after the fall of Milosevic stems from the structural differences of the two federal units and their size,<sup>61</sup> though one should not underestimate the determination of the Montenegrin elites to maintain their international standing and their "droits aquis" of sovereignty. The international community treats President Djukanovic as a head of state, and his country has a special status in the Stability Pact for Southeast Europe. It is unlikely that the Montenegrin political elite, which was rewarded by the international community for its resistance to President Milosevic and for sheltering the leaders of the Serbian opposition on Montenegrin territory, would now accept the role of Kostunica's "gubernators." During the NATO bombing of the FRY, the current Serbian Prime Minister Zoran Djindjic lived in Podgorica, as did Vuk Draskovic, after a failed attempt on his life in Serbia. The Montenegrin elite, which today governs the country, began to realize after 1997 that the federal state cannot be only built upon the temporary consensus of the political elites, as was the case in 1992. When in 1997/98 the consensus was definitively lost, the Montenegrin government and president found themselves in the extremely vulnerable position of being at the mercy of Milosevic and the federal army. Now the Montenegrin political elites have an adamant desire to build a *state*, which they consider to be the most effective instrument for protecting the established political order in Montenegro from the illiberal Serbian alliance led by Vojislav Seselj. The latter, together with the remaining supporters of Milosevic and the Serbian Unity Party (SSJ) of the deceased warlord Zeljko Raznjatovic-Arkan, occupy 74 seats out of 250 in the Serbian Parliament, elected in December 2000.

If there is no *explicit* commitment by the Serbs and Montenegrins to live in one state, then the FRY cannot become a viable federal state. As Vojtech Masny has convincingly demonstrated, federalism in East-Central Europe in the nine-

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61 Serbia and Montenegro are disproportionately different in size. Serbia is in terms of population seventeen times bigger than Montenegro.

teenth and twentieth centuries were monumental failures.<sup>62</sup> In spite of the complexity of the present relations between Serbia and Montenegro, and contradictory initial positions at the beginning of decisive negotiations, it seems that in the year 2002 Serbs and Montenegrins will decide whether they will live in a single state, or in two states.

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62 “Obstacles to federalism in East Central Europe, aggravated by the forty years of communism, were rooted in the long historical experience of its people. Little in that experience made the idea attractive or even interesting. Federal structure of any kind had been exceptional and federalist thinking at best marginal in the part of Europe whose modern history had been so prominently shaped by an ethnic quest for self-assertion within national states. The notion of a citizen’s legitimate allegiance to more than a single state entity had been alien there.” Vojtech Mastny, “The Historical Experience of Federalism in East Central Europe,” *East European Politics and Society* 14:1 (2000), p. 94.