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CONTENTS

Preface	
<i>Nicholas Whyte</i>	i
Keynote Address	
<i>Milo Djukanović</i>	1
Discussion	8
Session I. Montenegro's Legal Status: Options for the Future	10
Independence for the State of Montenegro: An Efficient Option for the Future	
<i>Mijat Šuković</i>	10
A European Solution for the Constitutional Future of Montenegro	
<i>Michael Emerson with Daniel Gros, Wolfgang Hager, Nathalie Tocci and Nicholas Whyte</i>	22
Panel Discussion	40
Session II. Balancing the Equation– Public Finance and Foreign Aid	45
The Economic Situation and Economic Reforms in Montenegro	
<i>Veselin Vukotić</i>	45
Panel Discussion	62
Session III. The Long-Term Economic Prospects	65
Montenegro 2010	
<i>Daniel Gros</i>	65
Panel Discussion	80
Session IV. Relations with Neighbours and the EU	82
Future Relations of Montenegro with Its Neighbours and the European Union	
<i>Branko Lukovac</i>	82
Panel Discussion	87
Closing Remarks	92

Annexes

I.	Programme of the Expert Meeting on the Future of Montenegro, 26 February 2001, CEPS	95
II.	Differences between the FRY/ Koštunica and Montenegrin Perspectives <i>Christopher Mulkins</i>	97
III.	Government of Montenegro Platform for Talks with Government of Serbia on New Relations between the Two States	103
IV.	Koštunica/Yugoslavia Proposal of January 2001	111
V.	Former Montenegrin Platform, August 1999	117
VI.	Departments of the Governments of Serbia and the Federal Republic of Yugoslavia	127

PREFACE

The conference on the future of Montenegro held in CEPS on 26 February, attracted considerable interest from the media and from the policy-making community. At the time, the official position of the EU and US was that Montenegro should not contribute further to what they saw as a ten-year long process of Balkan disintegration. A number of the contributors to this conference agreed. Many Montenegrins, represented in substance here by President Djukanoviæ, Foreign Minister Branko Lukovac and Mijat Šukoviæ, put forward a serious case for Montenegrin independence.

The results of the parliamentary elections of April 2001 have changed the dynamic to one of greater caution on all sides, but the issues have not gone away and the basic positions of the actors remain the same. Michael Emerson's proposals for a very thin confederation may indeed prove to be close to the eventual shape of the constitutional settlement.

Greater consensus was generated by the discussion of Montenegro's economic prospects, led by Veselin Vukotiæ and Daniel Gros. Without reforms, the gaping hole in Montenegro's public finances cannot be filled. The new government has very difficult choices to make.

This conference would not have been possible without the assistance of Dr Werner Rechmann, Stefanie Ricken and Anja Dargatz of the Friedrich Ebert Stiftung; Gareth Evans, Mark Pierce, Katy Cronin, Sascha Pichler and Theo Adekunle of the International Crisis Group; and Slavica Milaeviæ of the Montenegrin Representative Mission. My thanks to them, and to my many colleagues at CEPS who contributed to the success of this event.

Nicholas Whyte
Brussels
June 2001

Keynote Address

Milo Djukanović

President of the Republic of Montenegro

Mr. Emerson, Ladies and Gentlemen, Distinguished Friends of Montenegro,

Let me start with my thanks to the Centre for European Policy Studies, the International Crisis Group and the Friedrich Ebert Foundation for organising this conference. The presentations of international and local experts will make a contribution to our consideration of the future of Montenegro. I find it especially important that this debate allows for a wide diversity of political views on the subject of Montenegro's future.

The ambition of this European gathering is to shed new light on the options for the development of Montenegro concerning its future policy, economy and security. My presentation here will include comments about all of these aspects, as well as the related historical background. I do hope that such an approach will contribute to a better understanding of what Montenegro's aspirations are today.

It has been four years now that Montenegro has been successfully implementing its project of economic and democratic reforms. Today, we are on a stable and irreversible path to the European and transatlantic structures. The pre-history of this road was hard and traumatic. Montenegro went through the bloodstained disintegration of the second Yugoslavia; it had an episodic role in Milošević's third Yugoslavia; it was a determined fighter against his dictatorship, and a herald of democratic changes in the region. While the devastating wars were going on around Montenegro, it managed to preserve peace and multi-ethnic tolerance on its territory. It provided shelter for all refugees from the victimised regions both of the present and the ex-Yugoslavia – the Serbs from Bosnia and Croatia, the Moslems from Bosnia, the Albanians, and then the Serbs, the Montenegrins and the Romas from Kosovo. There was a time when the number of refugees was more than 20% of our total population. Even today, there are about fifty thousand of these unfortunate people in Montenegro.

At the time of the NATO campaign in Yugoslavia, Montenegro made a wise and firm decision not to participate in Milošević's war. Montenegro's choice was to stand for peace and a diplomatic solution for Kosovo. In the outcome of its democratic choice, Montenegro spent three-and-a-half years under the political, economic, public and military pressure of the dictatorship from Belgrade. Nevertheless, Milošević suffered three electoral defeats in Montenegro during the same period. In addition, we opened the process of

reform and democratisation, and we assisted the strengthening of the democratic forces in Serbia in every possible way. The world recognised Montenegro's significant role in that process, and it offered to Montenegro strong political support, which was later followed by financial help. Meanwhile, the democratic forces in Serbia managed to overthrow Milošević's regime by winning the federal elections last fall. The democratic Montenegro did not participate in those elections because they were organised on the grounds of the constitutional violation, namely the coup that Milošević pulled off in July of 2000. By this unconstitutional act, Milošević abolished even the formally existing equality of Montenegro in this federation, and he denied Montenegro's statehood. Practically, this was the annulment of the constitutional foundations of the joint state with Serbia that Montenegro voted for in the referendum of 1992.

All of these facts are relevant for understanding our future plans, and the latest initiative of our Government with the aim to resolve our future relations with Serbia. It was only when the changes in Serbia took place that we were able to open a democratic dialogue about a host of problems in our mutual relations. This is also the response to the international community to the question: Why is Montenegro opening up the issue of its statehood status now, when Milošević is no longer in the political arena? The answer is that during his dictatorship we did not want to trigger the fifth war in the Balkans. We demonstrated patience and tolerance, and we weakened Milošević by political means. We preserved peace and our own safety. At the same time, we were and have remained a reliable partner to the International Community in the implementation of its strategy for political and economic revival of the region. But even then we kept on reminding the key figures on the international scene that there is more to it than just Milošević in the problem of the Montenegrin-Serbian relationship. He only catapulted the problem to a threat of a military conflict.

A climate that is being created in the international community today is that all of the problems are solved by Milošević's departure. It would be good if it were so. Unfortunately, that is not the case. His removal eliminated the key problem that stood in a way of solving the crucial problems for stability of the region. The Montenegro-Serbian relationship is one of those problems.

Being a responsible government, which demonstrated its capability to deal with crisis in the most difficult times, we made a proposal for a long-term solution of our relations with Serbia. The substance of this proposal is already known. The starting point of our initiative is international recognition of the independence of both, Montenegro and Serbia, and forming of the Union of the two states on the bases of a bilateral agreement. This would end the case of the ex-Yugoslavia's dissolution, which started at the beginning of the 1990s. This would be a European epilogue of the Yugoslav drama that started in a typically Balkan style. It would also be a marker that a 10-year

engagement of the European Union and the international community on the territory of the ex-Yugoslavia was not wasted. I am afraid that any other solution would be just a postponement of the problem, with the uncertain consequences.

What is it that underlies our proposal? Both Montenegro and Serbia are the traditional Balkan and European states. Both were recognised at the Congress in Berlin in 1878. Mildly phrased, under the dim circumstances, which have been kept under the carpet for almost the whole century, Montenegro united with Serbia joined the first Yugoslavia after World War One. Montenegro emerged from World War Two with its statehood restored, and it formed the second Yugoslavia with other five republics on an equal footing in 1943. The assembly of the Anti-Fascist Council of the Yugoslav Liberation Army recognised the right to self-determination to all of the Yugoslav peoples, and Montenegro was no exception. The equality of the six Yugoslav republics was emphasised in all constitutional documents of the second Yugoslavia. Their respective statehood was reconfirmed in the Constitution of 1974. When the federal Republic of Yugoslavia started to fall apart, the European Union's position with respect to the former Yugoslav republics was expressed through the findings of the Badinter Commission in 1991. This was when all of the ex-republics were granted the right of independence and international recognition. Slovenia, Croatia, Macedonia and Bosnia passed their declaration of independence. Montenegro and Serbia, as the two states, formed the third, The Federal Republic of Yugoslavia, as it was written in the Constitution of 1992.

The third Yugoslavia never affirmed itself as a state. Serbia, headed by Milošević, immediately started to function as an independent state. As of today, it has never tried to coordinate its constitution with the Federal one. In practice, The Government of Serbia was in charge of the policy in economy, customs, defence and foreign affairs. In the last four years, Montenegro has also been functioning as an independent state. As we were protecting ourselves from Milošević, we were taking over – one by one – the functions of the federal authorities. Today, Montenegro is sovereign in its monetary, foreign trade, customs, foreign policy and internal security affairs. The Yugoslav Army is practically the only function that Montenegro and Serbia share. When Milošević was in power, the army was actually a constant threat to the democratic processes in Montenegro.

In sum, we think that our proposal is a rational one because it starts with the actual state of affairs. Internally, Yugoslavia does not exist because there is no Parliament, no Government, no jurisdiction and no legislation to be enforced on the territory of the joint state. After the fall of Milošević, Yugoslavia was internationally recognised on behalf of Serbia and Montenegro, which in reality function as two states. We felt the international recognition of Yugoslavia to be the support to the democratic changes in

Serbia rather than an opinionated approach to our relationship. The nine-year-old experience has shown that it is impossible to ensure equality between such disproportional partners in a joint state. Serbia is almost twenty times bigger than Montenegro. To the new authorities in Serbia we proposed a dialogue as a mode to reach the solution that would relax both Montenegro and Serbia of the unnecessary misunderstandings. It will also enable us to devote our energies to our respective problems in the right way. Instead of a joint state we proposed the Union of the independent states, which would fully respect the historical and other ties of the two peoples. We proposed a unified monetary system based on the hard currency, a unified principles of the foreign policy, and a fully reformed joint defence force. Montenegro's idea is that our relationship with Serbia would be established at the level of openness which already functions in the united Europe – with no passports, no customs, and with the same conditions for work and education for all of our citizens – with a full mutual guarantee of personal and state property. Such a solution would enable the preservation of the state and national identity both of Montenegro and Serbia, and it would improve the low-level condition of their present relationship. Especially, it would allow the creation of a responsible development policy that would lead both Montenegro and Serbia in the fastest possible way into the environment of developed European integration. All of these would considerably contribute to the strengthening of peace and stability in the region. Such a model, if agreed upon, could be simultaneously presented to the citizens in Serbia and in Montenegro for public vote.

For the time being, Belgrade is not showing much appreciation for our proposal. This confirms our evaluation that Milošević was not the only problem in our relations. The way of thinking that produced Milošević in the 1990s did not cease to exist with the end of his rule. The illusion of a Great Serbia project, which for a century and a half has been the source of many evils in the Balkans – including the most recent bloody inter-ethnic conflicts, is still alive in Belgrade. In all plans that come from the Great Serbia's nationalists, Montenegro is an inescapable factor. The duration of this illusion coincides with the span of time of the attempts to deny the Montenegrin state, its national and cultural identity, and its right to take responsibility for the shaping of its future. The eyes of Serbian nationalists have always seen Montenegro as a part of the Serbian corpus. As long as Montenegro stays with Serbia in whatever form of a united state, the project of the Great Serbia will continue to live and will be a threat to the peace and stability of the region. Our model for the definition of our mutual relations is a chance that this illusion finally gets destroyed, and that the most dangerous source of instability in the Balkans gets eliminated.

The lack of understanding for Montenegro's position is visible in the proposal made by Belgrade, which is better known as Mr. Koštunica's

Platform, with regard to the definition of our future relations. As a starting point, the proposal suggests that instead of the two functioning states there should be a so-called functional federation. In many aspects this proposal puts Montenegro in a worse position than it was according to the Constitution of 1992. All joint functions, which in essence present the actual levers of sovereignty of a state, would be in the authority of the federation.

The part of the proposal that we agree with is the evaluation about the present unsatisfactory relationship between Montenegro and Serbia, and that it should be changed. This is why we proposed a dialogue, and we shall persist in this proposal. For us, a democratic way is the only way to come to a solution. There is a saying that both Montenegrin and Serbian people have in common: everything you can do today, do not leave for tomorrow. Political experience from the territories of ex-Yugoslavia teaches us that problems should be solved sooner rather than later. As I think that our approach is a logical one, I also think that one could ask a logical question – why is it that the authorities in Belgrade do not want to run the affairs of their own state of Serbia? In all of the contacts I have had with their representatives so far, I have not heard a single convincing argument to that effect, with the exception of one political catch – we need no further Balkanisation of the Balkans. This formulation seems to be acceptable for the European Union and the international community as a whole. We, too, oppose “Balkanisation” by interpreting the term in its pejorative sense. But I also think that the keeping of the status quo at any cost means to bury one’s head in the ground, and to skip the problems. This is what I see as the Balkanisation of the Balkans. On the contrary, we propose that a long-lasting problem gets resolved in a normal way, and that its resolution adds to the “Europeanisation” of the Balkans. Does the sovereign international status of all member countries present an obstacle to their respective integration into the European Union? Of course, it does not. Among other things, it stimulates their position of equality in the integration processes. Our model is based on the same premises.

A part of public opinion in Belgrade is trying to frighten Europe and the world with the fact that the sovereign status of Montenegro and that of Serbia will destabilise the region. The world is not used to good news coming from the Balkans. I think that this initiative coming from Montenegro is sending positive political vibrations from this region to Europe and the democratic world. In the most difficult conditions of the previous years we gave our unselfish contribution to the region’s stability. Peace and stability are in the greatest interest to Montenegro. It is, therefore, sheer logic that in no way we could act against our own interest. This is out of question. That is why we have called for the pre-due parliamentary elections in Montenegro to be held on April 22. Our goal is to stabilise our political scene. By doing so, and by

our rehabilitation of the unhealthy relationship with Serbia, we are also making our biggest contribution to the regional security.

Kosovo is an old inherited problem, and a very difficult one to be solved at this moment. 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. Even more so because Montenegro and its citizens – Montenegrins, Serbs, Albanians, Moslems and Croats who live in harmony – have in no way contributed to the creation of the Kosovo problem, and to its escalation. At present, it is only certain that Kosovo has a long time ahead as a protectorate of the international Community. A democratic way of resolving the Montenegro-Serbia relationship can only serve as a positive example in looking for a solution to the Kosovo problem along the same lines. Whatever model gets applied in solution of the relationship between Montenegro and Serbia, the problem of Kosovo, with all of its specifics, will remain to be resolved, and it will be within a triangle: Belgrade – Priština – International Community. What I see to be a way for better understanding between Belgrade and Priština is also through a process of normalisation of relations between Serbia and Albania, with which Montenegro has been building good neighbourly relations. This has been Montenegro's policy with all countries in the region. I am fully convinced that wars in the Balkans are the past. We are entering a more peaceful period, which is also a chance for this region to get closer to the European integration. A promising factor to that effect is also a new generation of political leaders in the Balkans – the generations who are turned to the future rather than to the past and the historical myths.

There is also an exaggerated fear that Bosnia might be destabilised. The people there have had enough of bloody conflicts. There will be no destabilisation of Bosnia unless it gets to be stimulated by Belgrade and by Zagreb. The new Croatian leadership has taken a clear stand with regards to the position of Croats in Bosnia. The clear European position of Belgrade with regard to the Republic of Srpska will be a guarantee of a long-lasting peace in Bosnia. Making references to Montenegro in connection with Kosovo and the Republic of Srpska is wrong both politically and historically. Montenegro was, is, and will be a state. Namely, these are completely different political notions, and they are beyond any comparison in the context of trying to minimise Montenegro's initiative.

We want to live in peace with all of our neighbours, to decide on our own about our destiny, and to take upon us the responsibility for our future. Maybe for the first time in Montenegro's history, the present generations want to make use of their education, and put their knowledge and wishes into the service of proper valorisation of the natural, economic and human resources. They want to live from their work and not from the outside assistance. We want to build a free, open society of a market economy, and

to finalise the process of privatisation in a transparent way. Everything that we have accomplished so far in those areas we did with the expert and technical assistance from the European Union and the United States. The most qualified financial experts gave credit to our budget reform, and we applied European standards in reforming of our monetary, banking, and the overall financial system. We are making preparations for reform of our education system, the judiciary and public administration. Another of our priorities is tax reform. Our Adriatic coast is attractive for development of tourism, and it offers excellent possibilities for the maritime trade. Our resources are in the production of organic food, the abundance of drinking water, the aluminium and steel production. In our Constitution Montenegro is defined as an ecological state. The population of Montenegro is 650,000. We have developed the legal framework that would attract foreign investors. We have prepared profitable project proposals. We do expect that the European Union and the democracies of the world will support us in our endeavours to live and work in compliance with the rules of our European surroundings. The greatest assistance we could get would be the appreciation of our democratic goals. Unfortunately, everything we are doing, and we have done so far, in the area of reforms and democratisation has been kept under the veil of politics. We are, and we want to be a constructive partner of the European Union and the international Community. We hope that our offered hand will be accepted. During the last few years, Montenegro and Serbia not only did not take the same road, but they literally went in two different directions. An artificial merging of these two directions under the political pressures might be a source of instability. Neither Europe nor we would stand for that. Development of democracy, reforms and integration – these are our common strategic goals. It is also the best road for stability and security of the region, which is yet another of our common interests. The state policy of Montenegro is today in full compliance with the goals and the strategy of the European Union with regards the South-East Europe. My expectations are that the period ahead of us will be the time when Montenegro will demonstrate this in a more visible way, and when the European Union and the democracies of the world will understand it in the right way. I do believe that today's Conference will also make the right contribution to that effect.

Thank you very much for your attention. Should you have any questions, I will be glad to answer them.

Discussion

During the question and answer period, President Djukanoviæ made the following points:

- Although the threat of war in Montenegro is no longer a primary concern of the people, the republic's problems are not completely resolved. The next few months will be crucial to the future of Montenegro. The referendum and election in Montenegro must be conducted in an open and democratic matter to ensure Montenegro's stability.
- A democratic and open solution to the current state of Montenegrin affairs could be a positive example for Kosovo. Montenegro has a natural interest in keeping the stability of Kosovo intact.
- Today the people of Montenegro live in a paradox. They are now required to leave behind the moral argument and to take up the political and economic arguments that support their independence from Serbia and the FRY.
- Montenegro supports and recognises the International Tribunal for war crimes in The Hague completely. President Djukanoviæ recently promised Carla Del Ponte, the Chief Prosecutor, further cooperation from the Montenegrin government.
- Montenegro, although sympathetic, will not become involved in the affairs of Kosovo. The future of Kosovo needs to be resolved by negotiation between Belgrade, Priština and the international community.
- President Djukanoviæ is here in Brussels for the CEPS-ICG-FES conference. While here he will meet with Javier Solana, Chris Patten and Bodo Hombach, and will also speak to the European Parliament's Foreign Affairs Committee.
- In the realm of military issues, President Djukanoviæ stated that the Yugoslav army has no other purpose in Montenegro than to oppose democratic processes and reforms in the region.
- President Djukanoviæ's main goal now is to develop a democratic and European society in Montenegro.
- The President stated that the people and government of Montenegro hoped for so much by entering the 2^d FRY and got so little in return. Now the Montenegrins have begun to accept that independence is possible and feel empowered to establish their own state.
- It is the President's belief that you cannot stop the current trend in Montenegro towards greater support for independence, which has

increased from 10 to 60 percent in the last 10 years. The young people of Montenegro are particularly keen.

- President Djukanoviæ has always claimed that Montenegro is a nation with its own identity – they are not a part of Serbia or the Serbian state. At one time he supported the link to Serbia, but times change and he no longer believes in Montenegro's membership of the FRY. Djukanoviæ first claimed that Montenegro had the economic means to support itself in 1994 and he was denounced as a separatist. Today the support behind him has grown and he believes that Montenegro has the democratic capacity and the right to independence.
- Djukanoviæ described the past relationship between Montenegro and Russia as a good one that continues today. He understands why Russia, the EU and the US are hesitant to support Montenegro and their goals; they all have a right to doubt the Balkans. He does believe that Russia can be persuaded that Montenegrin independence is a good thing. The primary attitude of Russia, however, is that Montenegro's future is to be a result of relations between Montenegro and the FRY – democratic and transparent relations.
- When discussing the referendum there are two questions that remain: 1.) Who should vote? All citizens of Montenegro (all people that live within the borders of Montenegro) are allowed to vote in the referendum. The discrepancy concerns those Montenegrins (by birth) that live outside the borders – should they be able to vote? And 2.) What should the majority margin be for complete independence? How great a voter turnout is necessary? 50%? In the past, more than 70% of the electors have cast their votes. Djukanoviæ does not believe that getting 50% of the people in Montenegro to vote would be a problem.
- Agreements with Serbia would be concluded to grant open markets to each country so that Serbia would have access to the sea and be allowed to transport goods by rail through Montenegro. Montenegro hopes that this open market will not only apply to Montenegro and Serbia, but to the entire Balkan region.
- Djukanoviæ believes that no country is incapable of economic development, especially Montenegro.

**Independence of the State of Montenegro:
An Efficient Option for the Future**

*Professor Dr Mijat Šuković**

I shall concisely and systematically enunciate my factual findings about the constitutional and further legal status of the state of Montenegro and the options for its future status.

The factual ground of this finding is drawn from analysis of the present overall reality of Montenegro. This includes the economic, cultural-spiritual, political and international realities, not just the normatively constitutional and further legal reality. With this comprehensive approach, it is possible to understand better the content, meaning and effects of the potential constitutional and further legal destinations. It is also possible to use it more efficiently for evaluation of options for the future state status of Montenegro.

Although it is based on wider grounds, I present findings restricted to the constitutional and further legal settlements of Montenegro's state status. I do that because the economic and other aspects of Montenegro's state status shall be considered later today. I shall enunciate my findings concisely because of space constraints.

I have not softened my findings, nor have I adjusted them so that – someone might find them more suitable. It is not allowable to make the truth subject to a wish to retain the status quo. It is more efficient to tell the truth, even if that would expose us to the possibility of suffering and unjustified accusations of separatism, than to avoid that and to cause injustice to the truth.

I. Relevant Facts

All options for the future about the state status as well as about everything else, and their assessment in order to select the most efficient one, have their origins in the present, rather than in wishful thinking about the future. The theoretical basis of statehood, formulated in the nineteenth century, is that both the state and its status are based on the social and national materials that exist on the territory for which the state is built. History has verified that respecting this rule leads to stable and prosperous states, and disrespect of that rule led to the establishment of unstable states. We may take it that this rule “has the quality of algebraic rules and geometry”, and not the rules “of tennis play”. That is why I shall begin my finding with an evaluation of those present legal facts which are significant or relevant for identification of

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options for the future and for the selection of the most efficient one, or at least, the most acceptable one under the given circumstances. These legal facts are principles of the aforementioned “social and national material” whereof the future status of Montenegro will be built.

Those legal facts are:

1. Montenegro is a state whose historical duration has lasted for centuries.

It gained its status of an internationally recognised state 122 years ago, at the 1878 Berlin Congress.

It is also explicitly stated in the Constitution of Federal Republic of Yugoslavia (clause 6) that Montenegro has the status of a state even as its member.

As a state, Montenegro has a separate Montenegrin identity – historical, national, and cultural. It is the result of separation over centuries, separate political, social and state organisations, distinctive conditions and way of life, which have brought not only a separate state, but also a distinctive Montenegrin mentality, Montenegrin ethics and culture, understood in the broadest meaning of the word, and a variety of other specialities.

It is constitutionally governed by its Constitution, as a state symbol. It was first constitutionally regulated by Constitution of Montenegro in 1905, and after that successively by Constitutions in 1946, 1953, 1963, 1974 and 1992.

The borders of Montenegro have the legal character of state borders, including the border with Serbia, with which Montenegro forms a normatively existent federative union. And that part of the border legally has the status and character of a state border, not just an administrative border. The state status of border between Serbia and Montenegro was established on 30 October 1913, by the Agreement on the Serbian-Montenegrin border concluded between the Kingdom of Serbia and the Kingdom of Montenegro, which was ratified in the Parliaments of both Montenegro and Serbia. (It was signed, based on special royal authority, on behalf of the King of Serbia, by the honorary adjutant of King Petar Karadjordjeviæ and the Minister of War, general Miloš Bož anoviæ, and on behalf of the King of Montenegro, by the Minister of Education and Religious Affairs, Mirko Mijuškoviæ).

The border ratified by that agreement was altered in the region of Kosovo and Metohija by an agreement between governments of Montenegro and Serbia, to the advantage of Serbia. This updated border was established by the Constitutions of the People's Republic of Serbia and the People's Republic of Montenegro in 1946, by identical formulations in the respective constitutions. The constitutions give state character to everything that is arranged by them. Definition of border in it gives the border state character also. That condition has not legally changed. The fact that the border of

Montenegro has the character of a state border, and not an administrative border, is significant for the evaluation of options for the future and their implications.

2. The state of Montenegro is legally a member of the Federal Republic of Yugoslavia, which was only recently, eight years after its foundation, internationally admitted. This state exists legally, but presently it is unnatural and non-functional, with a legal system that is inanimate, and unaccepted.

Its unnatural character results from the fact that it is normatively a state of Montenegro and Serbia, between which there is no factual togetherness. Both republics act completely independently and perform all state functions, internal and international, as independent state. They have established separate, mutually different systems, both political and economic. They have different regimes for property relations, customs and external-commerce, and visas. They have different currencies, and they do not have a mutual banking transfer system. Their border, for more than a year now, has been the most rigid in Europe in respect of the trade of goods. Economic relations between them are far less and more unstable than relations between any two neighbouring sovereign states within the European Union. They also have different social and political realities.

There are different views on the Montenegrin identity, the Montenegrin cultural and national character, and the purpose of the Montenegrin state, and those are three key questions for their relations. The piercing and extensive charges to the mutual oneness have been unjustifiably overlooked and neglected. Unjustifiably, because it is not possible to understand and comprehend deeply and as a whole, the basis and meaning of the present relations between Serbia and Montenegro, nor to estimate their future based on grounds.

Their togetherness only expresses the existence of institutional structure that was commonly established in 1992, and which is still described as "federal". However, that structure, since more than three years ago, has not really been a federal one. It has no legislative or executive power, either on the territory of Serbia, or on the territory of Montenegro, which removes from it all attributes and characteristics of state power. In spite of the atrophy of that structure for the exercise of its functions, that structure has been continually misused for the oppression and destruction of the Montenegrin state, both nationally and cultural, which is in contradiction to the essence and the purpose of a federal state.

This (non) togetherness of Serbia and Montenegro does not contribute to the benefits of unity. Neither to Serbia, nor to Montenegro. It is non-functional. It can not be efficient at all. In contrary, it is a burden for both Serbia and Montenegro. It produces instability and disagreement in Montenegrin-Serbian relations, instability and a poisonous uncertainty for citizens.

The recent international recognition of the Federal Republic of Yugoslavia, which has gained its place in the international community, has not changed and it could not have changed the fact that it is an unnatural state.

3. Montenegro has been administering all state functions independently for the last few years – legislative, executive, administrative, juridical – internally without limits. It has been administering international functions also, but with limits caused by its membership of the Federal Republic of Yugoslavia, and which is therefore restricted by international law and the standards of international relations. Those limits are a real and big barrier to development reforms in Montenegro.

Through its independent administration of state functions, the state of Montenegro has built a distinctive legal system and legal order, including the system of property relations and the economic system as a whole; a system of values and culture, based on the historical achievements and values of Montenegrin society; and institutions for administering those state functions that are normatively still under the authority of federal structure. It has won during the last few years, by its civilised politics, in spite of the limitations caused by membership in the federal state, an enviable position and high rating in Europe and international relations in a whole.

There is presently, therefore, parallelism or unnatural coexistence between the normatively defined status of Montenegro and its factually established status. The differences are so big that their coexistence cannot be allowed much longer.

II. The Living Reality has Priority over Normative Definitions

It is a known and accepted rule that the established living reality has priority over inanimate and unaccepted normative definitions. Applied to Montenegro, this rule obliges us to start from the living in visions of the future, not the inanimate normative.

It becomes more obligatory when considering that the favouring of normative as a start for establishing a future, would with no doubt lead to a conflict with strong and rising cultural-spiritual and political direction in Montenegro so as to preserve what was factually built and further more to make it more secure with state independence. Because, different would imply and request: the destruction of the Montenegrin legal system and a number of institutions – state, monetary, custom, financial, informative and cultural – which were built with hard labour and deprivation, and all with the purpose of enabling the state of Montenegro to administer all these functions as an independent state; and annulment of the achieved level of subjectivity of Montenegro in international affairs, which was gained with lot of effort. And that would have caused, under present conditions, a big shake-up in Montenegro in the legal system, the international corpus, economy and in

cultural-spiritual field. It would have stopped reforms and the revival of production. It would also make conflicts in the cultural-spiritual field more severe. In political relations, it would have caused tapering, different profiles of political totalitarianism and totalitarian shapes of populism. A political head in Montenegro could not neutralise it. It also has no legitimacy to control all that disintegration.

If those shake-ups had emerged in Montenegro, they would have continued and made the instability of Serb-Montenegrin relations last longer, and strengthened the barriers for establishing harmony in those relations. That would not contribute to the stability of the region nor to achieving the goals of the European Community.

III. Montenegro's State Rights of Independence

The set and composite of facts undeniably demonstrate that Montenegro fulfils all conditions and that it has, by internal and by international law, two rights:

- a) the right of independent state status, and
- b) the right of using right for a full independence.

Use of these rights:

1) Does not hurt and does not endanger any right nor any legitimate interest of any other state. It does not hurt and it does not endanger any right of Serbia nor any legitimate interest of its.

2) Does not hurt and does not endanger, or at least it does not have to, acquired rights of Montenegro and Serbia's citizens. Including rights of real estate. In contrary, the principle of option for Montenegro's state independence, according to the Montenegro government's official proposition, specifically provides legally-contracted interstate guarantee of acquired citizens' rights and equal conditions, in Montenegro and Serbia, for acquiring citizens' rights in the future, including rights of work.

3) Does not change state borders, or their legal character. On the part of border between Serbia and Montenegro, only regime would have changed. But established in such a way, according to the Montenegro government's official proposition, so that the regime should assure non-passport and non-visa passage for citizens from Serbia and Montenegro and custom-free traffic of goods between them.

4) Does not narrow market space nor in Montenegro, nor in Serbia. Or at least, it is possible to resolve its narrowing. Because, the principle of option for using those two stated rights, according to the Montenegro government's official proposition, plans that the common market should be established by an agreement between Montenegro and Serbia on their territories, freedom of

traffic of goods, services, capital, labour. In contrary, by increasing stability and intensifying of reforms, improving chances for faster involving into European integration, and thereby for extension of market space.

Both rights of Montenegro have been stated both in finding and opinion of the Badinter Commission.

Stated rights, together with content of cultural-spiritual, political, economical and overall reality of Montenegro and Serbia, including their mutual relations, as well as content of overall circumstances that exist, recites and determines – determines both need and justification, social and legal-systematic, historical and civilised, that Montenegro, in this time, realises both of its stated rights. Those facts recite and determine that it is the healthiest and the most efficient option for the future of Montenegro under given circumstances and in this historical moment.

Delay of their realisation is not a constructive solution.

Realisation of stated rights implies civilised dissociation of Montenegro and Serbia out of their federative union and establishing an independent state status of Montenegro. Serbia as well.

IV. The Efficiency of this Option

This option is efficient for Montenegro because it follows its line of interest, decides about its destiny, its human and material resources, to have a full international subjectivity and direct membership in international institutions and organisations of states, that its development rise depends on itself, to be responsible itself for its future. Independent state of Montenegro is the safest guarantee of Montenegrin identity –not only stately, but also national and cultural –the biggest values of every nation. It does not matter not so numerous or big nation. As an independent state, Montenegro gains a possibility to direct and engage its entire cadre and other potentials, all its creative force in order to resolve present weaknesses of Montenegrin state and to build it and reinforce it based on European principles. It should conduct necessary reforms in all fields; to rationalise and professionally improve its state organisation, to clear up grey economy, corruption and other negativity.

This option is efficient because it also creates a healthier ground for the future relations between Serbia and Montenegro, for lasting stability in those relations. Stability that would have positive effect on the stability of relations in the region.

That makes this option efficient for Serbia also. For relations between Serbia and Montenegro. For stability in the region. And thereby for achieving goals of European Union in Balkan region.

V. Reality of this Option

The prevailing majority of young people and the educated strata of Montenegrin society who are categorically support this option give it reality. In economic structures, fields of culture and information, political fields. Their vitality and determination are real and a significant fact that deserves respect.

The fact that idea about independent Montenegro has survived its suffocating through decades and prohibition of its spreading asserts the reality of this option. Through those decades, in spite of intensive suffocating, the idea has persistently lived, as an ideal, in the body of people and society. Sometimes among many of them, sometimes among a few. As Valtazar Bogišić, a well known and acknowledged scientist, wrote, “the most reliable sign that some idea has in itself necessary living force so it can spread and develop, exists if it, despite everything, suffocating and restrains of spreading still advances and gets more and more space” (Ljetopis Matice srpske, book 111, for 1886, page 31).

There are political factors in Montenegro against this option and against the estimation on its efficiency and reality. They claim and tend to prove that it is the opposite to the state and national interests of Montenegro. Those factors had no success in disproving evaluation of value and advantage of destination for Montenegro independence so far, nor to stop the realisation of direction about referendum.

With all respect for these factors, the existence of these factors does not decrease the reality of this option.

Result of coming referendum about independence, shall show their real power, that will clearly determinate the reality of achieving the ultimate goal of this option.

VI. The Consequences of Realisation

The consequences of realising this option, contrary to some malicious stories, are not or should not be a source of anxiety.

Consequences are directly dependent on relation of political head of Serbia towards realisation of Montenegrin direction to have a referendum about independence

There will be no negative consequences, or there will be relatively few, if the state head of Serbia, before the referendum about independence of Montenegro is held, and which is scheduled for June this year, agrees:

a) to respect visible facts: that created conditions qualify direction of Montenegro for dissociation with Serbia and retrieving independence; that

the realisation of that direction is unstoppable, even if the majority of Montenegro citizens does not vote for that on this year referendum; and that is better for Serbia also to have civilised-cultural relation towards direction of Montenegro, such as brothers have when they divide common household, rather than opposing to that or encouraging some factors in Montenegro to cause conflicts for the stopping or boycott of the referendum; and

b) To accept proposition of Montenegrin government that the governments of Serbia and Montenegro should with no delay start dialogues about future functional relations between Serbia and Montenegro, about the way of their institutional providing, with a direction of clarification and assertion whether or not those relations can be maintained after dissociation, in the frame of union of states created by interstate contract, by model of relations between states of European Union.

If these two topics were realised, the main causes and reasons of divisions in Montenegro about its state status would have been excluded. Those divisions would not have existed, or at least not to that extent, if there were not their both spiritual and material support from Serbia.

After that forces in Montenegro that are against the independence, would lose their vitality, motivations, support, which would provide peace and restrained any stresses. That would be solid foundation for balanced relation between Serbia and Montenegro during the process of holding a referendum and later.

Maintenance and non-maintenance of cultural and democratic dialogues of Serbian and Montenegrin governments about these questions, therefore, will determine volume and character of eventual negative consequences of this option's realisation.

The European Union can play a big and immeasurable role during that process. That is why responsibility for eventual negative consequences of dissociation and establishing of independence is not nor can it be only on the Montenegrin side.

It is natural to expect that the present state authority of Serbia will accept denoted dialogs, validate stated facts and accept proposition about organised and institutionalised establishing of functional relations between states of Montenegro and Serbia. Besides other and because it would be wise stately action and because that government knows that it is the one of the most important tests of its democratic direction. It is natural to expect that, in spite of hitherto manifestation of secret anger, revolting negligence and contemptuous relation in moral and political sense, which is not a merit of stately acts and interstate communications.

VII. Relative Meaning of Living in One State

In our time, role and meaning of living in one state have been made more relative. It is the result of the bigger and bigger democratisation of relations between state, creating bigger and bigger technical and other possibilities for direct connection of citizens, industrial subjects, scientific and other intuitions, through the line of their needs and interests, purely human and business, without participation of state mechanisms, without state filters. That relativism will increase by the rate with which the possibility for mutual communication independent of state borders grows, and with whom the democratisation of relations in state and between them increases.

That shows that it is the most important for the people of Serbia and Montenegro, for their citizens to democratise their states as much as possible and to establish relations between them that will provide both citizens of Montenegro and Serbia free non-passport and non-visa pass and custom-free traffic of goods through their border; so that they would guarantee acquired rights through their interstate agreement, including real estate property right, as well as acquiring of rights in the future under equal conditions. Interstate agreement should establish a common market on their territories, including the labour market, so as to enable all citizens employment and undertaking market on territories both Serbia and Montenegro. That would mean to establish relations that are existent now between state members of European Union.

It is more important than whether they live in the same state or not.

Dissociation of Montenegro and Serbia out of federal union and establishing of their independence, therefore, is not or at least it does not have to be a dissociation of their people and citizens. Nor decreasing, nor rupture of relations between their people and citizens. Not in the present, nor in the near future.

Proof for that is also an experience from hitherto relations between people and citizen of Montenegro and Serbia. Experience argues that their relations have never been settled through, and that are not settled even now, only to their relations through state agencies and through interceding. Their relations are beside state mechanisms and their interceding, and always have been, and now they are interlaced by many out-state threads –economic, cultural, scientific, educational, personal, human and other. Relations that are more comprehensive, lively for human interests more useful and efficient than state ones. Even through periods of hardest prohibition of paycheque traffic between Serbia and Montenegro, life has overcome political madness. It is overcoming them even now, when although normatively there is one state, border between Serbia and Montenegro is still “though”.

Such relations and conditions for non-border relations of citizens and institutions from Serbia and Montenegro, for their people, can create only good will of political and cultural-spiritual structures of Montenegro and

Serbia and in conditions of establishing of independent states of Montenegro and Serbia. Far more convenient, therefore, than the existent conditions or the one that unstable, maladjusted, uncertain federation could ever provide.

It is a duty of these structures to follow interests, needs and directions of citizens and to constitute such a will.

They can create it even without especially institutionalised union. More stable and secure, however, they can do that by creating their union in a form of confederation, union or some similar alliance, without international subjectivity that overpower speciality of full international subjectivity both Montenegro and Serbia. That alliance would be additional column of stability and peace on Balkan.

VII. The Merits of the Proposition of Reorganising SRJ

Second official option of the future state status of Montenegro, has been outspoken in the Proposition for reorganisation of Federal Republic of Yugoslavia, which was made and on 10, January this year declared by the President of FRY, Vojislav Koštunica, and which was accepted after that by state-political establishment of Serbia.

It is planed in it that state status of Montenegro should remain status quo. That would mean, planned its stay within federation with Serbia. Federation with full international subjectivity, that excludes independence of Montenegro.

Merits of contents of denoted Proposition which relate to Montenegro are:

1) Outset for the conception of federation planned by Proposition, potentate aspiration for a unique state. In the part of constitutional directions, two unitary solutions have been built in, resumed from known unitary Constitutional amendments from 6 July on Constitution of FRY. Those solutions are free mandate of deputy in the Council of Republics and a proportional principle of their election. First issue makes Montenegro stateless, and the second creates institutional and legal ground for election of deputies in Montenegro from those layers that fight for the “Serbian interests”, and not the interests of Montenegrin, and that would in Council of Republics follow politics and directions of Serbia, even when they are opposite to state and national interests of Montenegro (as it did happen on occasion of making and accepting Constitutional amendments from 6. July, through which though violence has been executed over Montenegro), and would make a factor of providing outvote over Montenegro. In that way, Montenegro would have neither equality, nor the institutions and legal resources to protect its equality.

The unitary direction of the Proposition also states the determinant “functional federation”. According to the source theoretical concept of

“functional federation”, unity and central deciding about all question of its inherence, make two the most important merits of concept of that form of federation. Premise of that concept finds efficiency the most important value of state. It is considered for a value that justifies and to which all other needs and principles must be subjected to, including the equality of members and their participation in making decisions about questions that are in competence of common state. Such value direction in that concept, has arisen from and became an imposed by social-economic situation of big economic crisis in 1929 year, during which the concept had originated and theoretically constituted. (See Harold J. Laski, *Liberty in the Modern State*, 1930.)

There is no mention in the introduction or in the whole of its contents that Montenegro is a state, nor is there any explicit respect for Montenegrin national and cultural identity. There are no tough barriers and guarantees that misuse of common state with damage for Montenegrin side such as the one experienced in practice, would not become a thorough reality.

Even though the new government of Serbia asks from the Montenegrin people officially to put up with inequality in a common state, to be in that position that obligates them to live with a sense of degradation of their dignity!

Montenegro has no reason, nor the interest – historical, present or future that can be seen nor economic, cultural, political, international – to accept live in a state that through its dominant cultural-spiritual being does not guarantee its identity and individuality, its equality and the right to decide about its future.

Signifying national identity and its protection, is not the act of nationalism. To preserve and protect one’s own, with respect for others and their rights, civilised values and standards, represent the very fight against nationalism. It does not also represents the creation of national state. Montenegro has through long-lasting practice proved that it has firmly determination to build society and state based on the multicultural, multi-ethnic and multi-religious principles.

I can only conclude that the option planned for reorganisating the Federal Republic of Yugoslavia is not efficient for Montenegro. The option of dissociating Montenegro and Serbia and establishing their independence is more efficient. It is more efficient for creating an alliance of states, but even without it.

IX. Purpose and Utility of the Alliance of States

Both options agree or do not differ to a great extent in determination that it is useful and needful to renew, establish and stabilise functional relations between Serbia and Montenegro. Option that was analysed first plans that

those functional relations would be realised within alliance of the states of Montenegro and Serbia, and the second, in the frame of federation.

Alliance of the states is not the same as federal state. It can not make up for all the federal functions.

It is wrong and harmful for the future relations of Serbia and Montenegro, however, to minimise the role and the meaning of their alliance of the states, which is done when it adds up to the state-legal form, just to the relations of states, when it comprehended statically and when it is denied a value that it can objectively have.

It is right to consider the alliance of states of Serbia and Montenegro in the widest association, social and cultural frame. Comprising width and depth of mutual relations and intimacies that rule in human associations. With focusing of acting-functional strength of the alliance of states. The strength that facilitates numerous dynamic relations between citizens and people, that are based and built on needs and interests of acting industrial cultural, educational, medical and other subjects in Montenegro and Serbia, as well as parental, friendly, professional, working and other human relations.

When analysed and judged like that, its value is unmistakable.

An idea to form an alliance between states of Montenegro and Serbia, is not contradictory nor with the goals of federation, nor with the goals of independence of states. In contrary, through existence of alliance of states majority of federal goals can be achieved, as well as it can serve as a suitable frame for developed and stable relations between independent states of Serbia and Montenegro, their people and citizens.

That make dialogs of two governments about these functional relations an imperative, with initial disregard of differences in fundamental directions, with a direction to clarify during conversations and to identify the way how those relations should be established and institutionally provide. Clarification and identifying of that will bring to the clarification and identifying of what option of state status has priority.

Necessity and effectiveness of dialogs between two governments about functional relations, for which both options aspire, is undoubted. As soon as possible, is better. Delay of dialogs about that, is not a constructive solution.

A European Solution for the Constitutional Future of Montenegro

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Abstract

This paper does not take position on the binary choice between ‘independence’ versus ‘federation’ that presently dominates the debate over the future of Montenegro, both of which pose some problems. It does, however, point to various examples of ‘asymmetric unions’, which have been devised to accommodate the special case where there are just two entities, one big and one small, that form a common state. It also describes how it might be possible technically, if it was desired politically, to arrange the main institutional and policy elements in a compromise ‘European solution’, which could function adequately in the near future. This would require constructive good will on the part of the EU as well as Podgorica and Belgrade. In a longer-term perspective the common integration into the EU could largely dissolve today’s tensions between the two parties. Both parties look forward to a European future, but their proposals do not really reflect it. The paper therefore offers some ideas on this. The main idea is to approach the question of Montenegro’s constitutional future by looking at how the major functions and institutions of government might each best be organised in the immediate future and in the longer run. The system might then be made to fit the objective needs. There is every reason to devise a tailor-made solution, rather than be constrained to choose between stereotyped constitutional models which are both conflictual and increasingly out of line with the realities of the integrating Europe.

The starting point is that the EU is itself evolving as a multi-tiered political structure (EU, member state, federated/autonomous sub-states or regions, local government, to which are added some trans-national euro regions). The EU polity is now one in which the primacy of the ‘sovereign nation state’ becomes greatly diluted, especially for the small states, with EU citizenship acquiring increasing legal substance alongside national and regional identities. Some member states experience transfers of functions of government simultaneously both upwards to the EU level (economic and monetary union, justice and home affairs, external and security policies), and downwards to the level of regional autonomies (education, culture, regional economic development etc). In this modern Europe old-fashioned struggles over independence and sovereignty of the state fade away, giving way to

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multi-tier, overlapping political structures. These are not just academic abstractions of political scientists. This is the modern European formula for peaceful multi-national and multi-ethnic integration.

The Montenegro question is now pressing for decision. The EU, rather than simply saying 'no' to independence and 'yes' to a federal solution, might offer elements of a special solution under which Montenegro would begin to fit already into this European model, and which should take into account the Republic's recent history and its current objective priority needs. A really substantive offer might change the terms of the political debate within Montenegro away from simply divisive alternatives.

Introduction

Montenegro is to be credited for the scale of its autonomous reforms in recent times, notably from 1999, and for its courageous resistance during this period against the Milošević regime, to whose non-violent end Montenegro made an important contribution.

As a matter of international law the Badinter Commission in 1991 and 1992 found¹ that the former Yugoslavia had effectively ceased to exist and that it was for the Republics (i.e. including Montenegro, but not sub-republican entities) to "constitute, if appropriate, a new association with democratic institutions of their choice". Having decided in 1992 to remain in a joint state with Serbia, Montenegro is now reassessing that relationship. It is of course for the governments and peoples directly concerned to work out and decide what this relationship should be.

This paper first reviews the current proposals of Podgorica for the future relationship between Montenegro and Serbia, which would amount to a confederation (Annex A), and those of Belgrade for a new federation (Annex B). Both proposals aim to resolve the future of the Montenegro-Serbia

¹ The EC Arbitration Commission, (Badinter Commission) in their Opinion No. 1 of 1991 found the Socialist Federal Republic of Yugoslavia "no longer met the criteria of participation and representativeness inherent in the a federal state", and that it was "incumbent upon the Republics to settle such problems as state succession ..". In a subsequent Opinion No. 8 of 1992 the Badinter Commission was requested to determine whether the process of dissolution of the SFRY was complete. It found that "The existence of a federal state, which is made up of a number of separate entities, is seriously compromised when a majority of these entities, embracing a greater part of the territory and population, constitute themselves as sovereign states with the result that federal authority may no longer be effectively exercised". See for a detailed legal analysis: International Crisis Group, *Current Legal Status of the Federal Republic of Yugoslavia and or Serbia and Montenegro*, ICG Balkan Report No. 101.

relationship and both are using the language of ‘union’ or ‘unification’ to refer to the new structure. The term ‘Union’ is used in the present paper as a shorthand name² for the future regime.

The current official proposals may be read alongside two academic papers prepared by experts from Belgrade (Mijatoviæ, Popoviæ and Samardž iæ³) and Podgorica (Šukoviæ⁴). It is encouraging that the search for a solution is being supported by analytical contributions, which relate the official proposals to well-established principles of political science and law.

Also here considered are some other constitutional models, including ‘asymmetric union’ and intermediate formulas which may draw on a mix of federal and confederal elements. Finally the paper sets out in some detail elements for a ‘European solution’, given the perspective of European integration for the whole of South East Europe, which is the official policy of both the EU and the region itself, including the authorities in Belgrade and Podgorica. However, the proposals of the parties, EU as well as Belgrade and Podgorica, are lacking in content or vision on this European dimension. Yet the substance of a ‘European solution’ could be crucial in turning the trend in the Balkans, away from continuing destructive fragmentation, and towards a reintegration process which would be both regional and European at the same time. Montenegro will in any case become part of the ‘Europe of the regions’, which involves simultaneous decentralisation and integration for a vast number of administrative units of around the size of Montenegro, but whose political status encompass the whole range from county to sovereign state.⁵

1. Confederation

The Government of Montenegro proposes independence within a common state, which would be called the ‘Union of Montenegro and Serbia’ (see the ‘Platform’ proposal in Annex A). The Union would have the following responsibilities:

² The present paper does not discuss the question of the name of the ‘Union’.

³ B. Mijatoviæ, D. Popoviæ and S. Samardž iæ, “The Union of Serbia and Montenegro – proposal for the constitutional reconstruction of FRY”, Centre for Liberal-Democratic Studies, Belgrade, 2000.

⁴ M. Šukoviæ, “Relations between Montenegro and Serbia in the Light of their Legal Status and States”, Podgorica, 2001.

⁵ There are about 200 administrative regions in the European Union (at the level of NUTS 2 classification), with an average population size of a little under 2 million. Of these about half are in the same population bracket as Montenegro – between half and one million.

- *Defence.* Montenegro and Serbia would have separate armies. The common activities of these armies would be under the command of the President of the Union, acting however on the basis of decisions of a Supreme Defence Council, which would decide by consensus.
- *Foreign policy.* The autonomous policies of the states would be coordinated, with a rotating 'Coordinator' minister. There would be arrangements for joint use of diplomatic infrastructures. One member state may entrust certain tasks to the other.
- *Common market and customs area.* The customs system would be under the competence of the states. Customs tariffs could be harmonised, but with special agreements to take account of specific interests.
- *Common convertible currency.* It is not said what the common currency would be (a new dinar, or the euro?). However each state would retain the right to its own monetary system, if the monetary union were unsatisfactory.

There would be a single legislative chamber, with equality of seats per state. The posts of president and vice-president of the union would be from different states, rotating every two years. A Council of Ministers would include posts of a president and vice-president and ministers of foreign affairs, defence, finance and economics.

This may be described as a confederal structure, although the text does not use the term. Sovereignty would be vested in the member states, not the Union itself. The Platform is not explicit on whether there would be joint or separate citizenship for the peoples of Montenegro and Serbia.

2. Federation

President Koštunica proposes in principle a federal model of state unification (Annex B), for a 'joint state of Serbia and Montenegro'. There would be a number of exclusive federal competences (principally foreign policy, defence, monetary and customs systems, transport), and a number of shared competences (principally basic rights and freedoms, taxation, banking, trade law, pensions). There would be a two-chamber parliament, an upper house with an equal number of seats for each republic, and a lower house which would be closer to proportional to population, but still with a minimum number of seats for Montenegro.

The proposed joint state of Serbia and Montenegro would be a single sovereign state for the purposes of international recognition and citizenship (one UN member state, one passport).

This is an orthodox federal model, except in one important aspect. Most federations that have survived the test of time consist of at least several if not

many federated states, whereas Montenegro and Serbia are just two, with one over ten times bigger than the other. The question of federalisation of Serbia itself (e.g. for Vojvodina, Sandžak and other regions) is not addressed by Belgrade, nor is it pursued in the present paper. Since the proposal is for an 'asymmetric union' the institutional arrangements for this special case should be considered explicitly, since there are a number of examples of this kind (see below).

In any case this structure of 1 big and 1 small state would necessitate a major reform of government structures in Belgrade. As Annex C shows, Belgrade inherits much overlapping of Yugoslav and Serbian government departments and political structures, which need to be rationalised as a matter of urgency. President Koštunica proposes a federal government with 5 ministries – Justice, Defence, Foreign Relations, Finance and Transportation.

The EU has expressed its support for a 'Federal framework' or 'Federal relationship' (Foreign Ministers on 22 January 2001). This is clearly opposing the separation of Serbia and Montenegro into two independent states, but without saying anything specific on the form of federal (or confederal, or asymmetric union?) structure. The US position is believed to be similar. The approach taken in this paper is to interpret the word *federal* in a broad sense, since it is obvious that a classic federal structure does not fit naturally the needs of a very asymmetric union of two states.

3. Status Quo

Prime Minister Djindjić of Serbia proposed on 22 January continuation of the present federation for a period of three years. This sounds like continuing with the status quo, under which Montenegro is effectively autonomous for economic and monetary policy and management of the state, while citizenship and international recognition remain legally vested in the FRY.

This might have the advantage of allowing emotions to calm before definitive decisions are taken, and also for policy makers in both Belgrade and Podgorica to see how far they wish to follow common, similar or different policies. At present Montenegro is more advanced than Serbia in policies of economic and monetary reform, having started over a year earlier. It is desirable of course for Serbia to make rapid progress in the reform of its policies and institutions, not for Montenegro to be slowed down or pushed back. How Serbia will progress is not yet known. But a period of about three years would clarify this.

The disadvantage of the status quo is that the FRY does not function properly, indeed hardly at all. There are important political ambiguities (e.g. control of the armed forces) needing resolution and an urgent need to rationalise the structure of overlapping Federal and Serbian government

structures in Belgrade. The uncertainty factor is also very bad for the economy and potentially destabilising politically.

4. Asymmetric Union

The '1 big + 1 small state' structure amounts to a special form of organisation, which may be called 'asymmetric union'. This can, however, embrace elements from either federal or confederal models, with pairs of states that may be unified or separate as a matter of international sovereignty.

Examples include Belgium-Luxembourg, UK-England-Scotland, Russia-Belarus, Tanzania-Zanzibar. These offer a range of options in relation to notions of 'nation' and 'state', as well as for the structures of government. While some of these examples may seem rather distant and exotic for the Balkans, they are at least reminders of the many ingenious solutions that have been engineered to resolve seemingly intractable constitutional problems. They should encourage the search for a specific solution for Montenegro and Serbia, and avoidance of a drift into conflictual attitudes.

Belgium and Luxembourg are two nations and two independent states, sharing an economic and monetary union, now largely overtaken by the EU's economic and monetary union. The main functions of the Belgo-Luxembourg union have thus passed to the EU level, although residual functions remain (such as tax coordination). By contrast Belgium itself is a rather symmetrical federation, whose two main communities have agreed on the division of competences between federal and community levels, with several explicit guarantees of political equality between them (e.g. assignment of places in the government).

Russia and Belarus are two independent states, formerly unified in the USSR, but with the particularity that Belarus was always a member of the UN, with this symbol of formal sovereignty not impeding the functioning of the integrated USSR. After several years of separation Belarus and Russia have formed a new union, but still of two sovereign states. They envisage economic, monetary and military integration, some steps already applicable, some planned for several years ahead. Common political institutions are created.

The United Republic of Tanzania is a single sovereign state, with two entities: mainland Tanzania (population 33 million) and the island of Zanzibar (population 1 million). Since the end of the 1970s Zanzibar has been wholly autonomous in its internal affairs. International relations are handled by Tanzania. There are no separate federal institutions to deal with these issues. Zanzibar's presence in Tanzania's political institutions is assured through representation in the Tanzanian parliament of nominated members of the Zanzibar parliament, and in the post of vice-president (if the

president comes from the mainland). This is a very clear example of asymmetric union.

England and Scotland are two nations within a single sovereign state (UK⁶), with single citizenship, and with substantial devolution of functions to Scotland. Outright independence has been debated politically in recent times. Democratic consultations have included referenda, as well as regular elections to the Westminster and Edinburgh parliaments, and local government, in all of which the Scottish nationalist party has been prominent. The referendum instrument has been regarded as the ultimate democratic consultation, but used with very great care, since so much depends on the precise formulation of the question. The two referenda of 1978 and 1997 both addressed proposals for substantial devolution, and did not put the independence question. This 1978 referendum was not decisive, but the 1997 referendum was carried by a large majority.

As with Serbia and Montenegro, the two nations of England and Scotland have long and proud histories and identities. But the English or Scottish identity of the individual has no legal status. It is a matter of personal sentiment, while not less strong for that. Nobody can determine who is a Scot or Englishman, except the individual himself, who is sovereign in the matter, including those living in the other's territory. The issue of separate citizenship is avoided at the level of law, but very much alive at the level of social identity.

Support for independence advocated by radical Scottish nationalists has diminished alongside development of greater autonomy for Scotland and the growing experience of membership of the EU. Scottish nationalists who advocate independence from England no longer advocate secession from the EU. Some Scottish nationalists would like Scotland to join the euro ahead of England, without necessarily seceding from the UK. Under the current UK government, Scotland achieved a substantial strengthening of its constitutional powers and institutions, becoming virtually a federated state – in the framework of an 'asymmetric union'. There are in London no duplicate ministries of finance or education etc. for the UK and England separately. Instead, some UK government departments have jurisdiction in Scotland, some do not.

The relationships between the UK, the Isle of Man, the Channel Islands and the EU also contain some interesting legal provisions. The Isle of Man and Channel Islands are not part of the UK, but its people have British citizenship, or can easily have it, and they also have full rights of EU citizens

⁶ We leave aside the cases of Wales, which has a weaker form of autonomy than Scotland, and Northern Ireland, which now has a complex set of relationships within the UK and with the Republic Ireland.

in the rest of the EU. Passports are British, but they are explicitly and visibly issued by the governments of the Isle of Man or Channel Islands. The UK takes responsibility for their external relations, but has no legal jurisdiction over the islands, should there be a dispute over competences. These islands are not part of the EU, but accept a large amount of EU jurisdiction regarding trade policy and the rights of persons.

The Åland Islands are in the Baltic Sea half way between Finland and Sweden. The population of 25 000 are largely Swedish speaking, but the islands are an autonomous and demilitarised province of Finland and part of the EU. There is a special Protocol attached to the treaty of Accession of Finland to the EU defining their relationship with the EU. The Åland Islands have no authority to enter into international agreements on their own. However if an international treaty entered into by Finland conflicts with its Autonomy Act, the legislature of the Åland Islands has to give its assent for it to be valid on its territory.

An essential difference between an asymmetric union and a regular federation or confederation is in the handling of the very different weights between the states. Federal structures provide in principle for equality, with no single state dominating. Confederal structures involve even stronger parity between the states, with the need for unanimity for any decision in a confederation of two states. In a union of two states of very unequal size the big state may consider such structures to be excessively generous to the small state. In an asymmetric union these problems are attenuated. The small state is effectively able to opt out of the big state's policies for a certain list of functions, and the big state is free to decide on its own preferences. The term 'associated state' is sometimes used in connection with asymmetric unions of a small entity attached to a larger entity.

5. Outright Independence

The question of independence can be discussed for its political and economic aspects.

Politically, an independent Montenegro would become the 197th member state of the UN and member also of many international organisations. The EU, US do not wish to see Montenegro attempt outright independence. There are two reasons for this.

The first and most important concern is over demonstration effects elsewhere in the region, which might encourage other separatist or irredentist moves. The cases in point include, of course, Kosovo, where indigenous pressures for independence are very strong. The concern here is that developments in Kosovo could destabilise and fragment either Macedonia or Albania or both. While there should be no illusions over the likelihood of any renewed union between Kosovo and Serbia, it is still an operational political objective of the

highest order that the future status of Kosovo be worked out in a general context of peaceful negotiation, and regional and European integration. There is also concern for Bosnia and Herzegovina, whose integrity as a state cannot yet be taken for granted. For example Serb nationalists in the Serb Republic or Croatian nationalists in the Federation could be encouraged by independence for Montenegro to demand secession from Bosnia and accession to Serbia. Within Serbia itself there would be fears of destabilising the situation in the border region of Sandžak, as well as Vojvodina.

The second concern, especially for the EU, is not to encourage the proliferation of very small states in a region, all of which now has the official perspective to accede to the EU. This is partly for institutional reasons. The Zagreb summit in November 2000 showed that both the EU and all of South-East Europe support this integration perspective. However the Nice European Council meeting of December 2000 also showed how sensitive is the matter of balance within the EU between larger and smaller states, and concern for the viability of institutions with very many member states. The EU has another reason, which is a deeper matter of political philosophy of modern Europe. The EU becomes a multi-tiered political structure (EU, member state, federated/autonomous sub-states or regions, local government, to which are added some trans-national euro regions). The EU polity is now one in which the primacy of the 'sovereign nation state' becomes greatly diluted, with EU citizenship acquiring increasing legal substance alongside member state citizenship. Some member states experience transfers of functions of government simultaneously both upwards to the EU level (economic and monetary union, justice and home affairs, external and security policies), and downwards to the level of regional autonomies (education, culture, regional economic development etc). In this modern Europe old-fashioned struggles over independence and sovereignty of the state fade away, giving way to multi-tier, overlapping political structures. These are not just academic abstractions of political scientists. This is the modern European formula for peaceful multi-national and multi-ethnic integration.

The strong preference in the EU therefore, shared by official and much academic thinking, is for a compromise solution for Serbia and Montenegro in the spirit of these modern European trends. The arguments here are entirely political.

The argument is also sometimes heard that Montenegro is too small to be an independent economy. By contrast with the serious political arguments above, this economic argument is manifest rubbish, given that Europe has a multitude of small, very small and micro-states which are exceedingly prosperous. Montenegro has a population comparable to that of Luxembourg, Cyprus and Malta and many times bigger than various European micro-states such as Andorra or Monaco.

The question for Montenegro, be it an independent state or as part of a union with Serbia, is whether it has the potential to become prosperous, and, if so, whether it can organise economic and monetary policies to realise that potential. In fact Montenegro has some obvious natural advantages and specialisation's on which to base its future prosperity: tourism, the port-transport-transit sector and hydroelectric power. The coastline is an extension of the Croatian Adriatic River. The Montenegrin sector begins just a few kilometres south of Dubrovnik. With an open frontier and an improved Adriatic highway the Montenegrin riviera could aim at a progressive modernisation, expansion and upgrading of its tourist sector. Inland tourism also has considerable potential. For the port-transport-transit sector, the port of Bar has a good locational advantage for supplying the needs of inland Serbia, Kosovo and parts of Bosnia. Hydroelectric potential also offers real opportunities for profitable investment. On the basis of these three sectors the rest of the service and light industrial sector could also develop adequately.

Prerequisites for achieving this potential are complete economic openness, a good monetary and banking system, correct state and corporate governance and a stable international status.

6. Elements of a European Solution

This section reviews the concrete functions that matter in the search for accommodation between Belgrade's call for a renewed federation versus Podgorica's call for a confederation. It is noted that President Djukanoviæ is speaking in favour of independence to safeguard the democratic and economic reforms that Montenegro has achieved in the recent past. It is also considered here how the European integration context could reduce or dilute points of friction and bring extra value-added and advantages for all parties.

Three principles are suggested:

1. Every effort should be made to avoid a brutal separation – i.e. one resulting simply from the breakdown of negotiations – but instead achieve a constructive political compromise, which would be a positive example for the Balkan region.
2. A hybrid solution somewhere between federation and confederation may be appropriate. The EU is itself a federal/confederal compromise. There is no reason not to construct another one.
3. Where Montenegro wants to differ from Serbia in specific policy domains, it may be useful to distinguish:
 - A/ essentially local issues suitable for decentralised choice, in which case Montenegrin competence can be readily agreed; and

- B/ matters of common interest not only between Serbia and Montenegro, but which are also domains of actual or emerging EU policies. In this case there might only be temporary differences between Serbia and Montenegro, given the common objective of convergence on EU policies. If in some of these instances Montenegro wished to converge on the European policy faster than Serbia, this could in principle be viewed favourably.

The new Union might then fit in with the mainstream EU model of two parallel processes: on the one hand regional decentralisation in some domains, alongside on the other hand convergence on EU policies in other domains. This two way redistribution of competences, ‘upwards’ and ‘downwards’ at the same time, is the modern European way of dissolving conflicts and struggles over such classic concepts as ‘independence’ and ‘territorial integrity’. For the Balkans as a whole this model would also have the great advantage of re-integrating the region in a politically acceptable manner, i.e. through and with the EU.

Citizenship. This issue is not dealt with explicitly in either the Koštunica or Djukanoviæ documents. At present residents of Montenegro have F.R. Yugoslav passports. Passports issued in Montenegro include the following reference:

Issued by: MUP RCG – CB PODGORICA

where the initial letters stand for Ministry of Interior Affairs, Republic of Montenegro. These passports are used internationally without difficulty.

If Montenegro were to become fully independent, with separate Montenegrin citizenship, there would be considerable complications. First would be the position of residents of Montenegro considering themselves to be Serbian, and the corresponding position of residents of Serbia considering themselves to be Montenegrin. Common citizenship of the Union would seem to be a far better solution.

However there could be ways of enhancing Montenegro’s identity within a system of common citizenship of the Union. For example the reference to the issuing authority could be made more explicit and prominent. The identity of the issuing authority would of course be strictly on the basis of residence, not ethnicity, religion or culture. It could be for consideration whether the passport should also display a Montenegrin symbol, or both Union and Montenegrin symbols. The passport could draw further on the model of the EU, which cites first “European Union” and then has the name of the member state, and then the symbol of the member state.⁷

⁷ N.B. For Bosnia the High Representative decided in September 2000 that the passports of the citizens in all entities should be identical, with only the BiH

All citizens of the Union would have the same rights of residence, movement and employment, irrespective of the place of issue of their passport. There would be the duty to enrol for military service in one or the other army (as is usual for persons holding dual nationality). They would vote where they were resident. National identity could be expressed (Scottish style) very distinctly, but as a matter of personal choice, not a matter of law.

Citizens of the Union would have equal property rights, notably to own real estate in either Serbia or Montenegro. This is an obviously important and practical matter, on which the official documents are silent.

At some stage, in the future, given the perspective of EU membership, the passport might come to have even a triple identity – for example EU, 'Union of M & S', Montenegro. While this may be a distant perspective, the point would be already to encourage public opinion to think in terms of the European citizenship with multiple identities.

Armed forces. In a peaceful Balkan region Montenegro would have no need for a full army, but rather for specialised local forces for frontier and coastal protection and internal law and order. Given the recent history of the role of the Yugoslav army in Montenegro it is understandable that Montenegro wishes the armed forces on its territory to have an autonomous command structure, for the time being at least. This could nonetheless be consistent with a coordination mechanism with Belgrade, and provision for a joint chief of staff for agreed actions, as proposed in the Platform.

However this assumption of a peaceful region itself calls for a wider initiative to consider what kind of security order should now be organised for South-East Europe. The long-term objectives of NATO and/or EU accession are a part of the answer to this question, but not sufficient for immediate needs. With the passing of the Tudjman and Milošević regimes, it is now time for a fundamental debate on how to secure a change of regional security paradigm: away from that of regional conflicts and hostilities, and into that of the Europe where war has become unthinkable. This would require a political debate for all in South-East Europe to undertake together. It should also become a dimension to the EU's new work on its own security and defence policy. As regards NATO, it would be for Belgrade to decide whether or when it wished in this context to deepen relations with this organisation. In the meantime, while a new regional security order was being shaped, there would be no immediate need for Montenegro's small local forces to be subordinated to an integrated command structure.

name and symbol, in Bosnian, Croatian and English languages (in Latin script) and Serbian (in Cyrillic). This was to eliminate tendencies for the entities to differentiate the passports issued by their authorities. Belgium, however, provides approach, the citizen choosing the language of his identity card.

Monetary policy. There is agreement that there should be a common convertible currency, which in due course would be euro, given the goal of European integration. Montenegro is already using the DM/euro for its budget as well as private transactions, and will be fully euro-ised when the banknotes are introduced at the beginning of 2002. However Belgrade wishes at present to have a reformed dinar. This should be entirely convertible, allowing also for the fully legal use of the euro in Serbia. In this case there would be no great problem with Montenegro's use of the euro. Montenegro should not be put under pressure to renounce the Euro, since its use is especially appropriate for an economy specialising heavily in tourism and entrepôt trade. It would be advisable for Serbia to envisage a policy of rapid euro-isation, and for the EU to support this policy, and certainly not discourage it. Euro-isation is by far the best route for monetary re-integration of the region.

Trade policy. Montenegro has in the last year differentiated its trade policy from that of FRY, introducing simplified and generally lower tariffs for trade with third countries. Between Serbia and Montenegro there remains a free trade regime, with zero tariffs. However the tariff policies for third countries are substantially different. The FRY average tariff is 15.46%, whereas Montenegro's is only 5%. The highest FRY tariff is 40% and Montenegro's is only 15%. The Federal authorities in Belgrade have recently submitted proposals to parliament reducing FRY tariff rates in many cases, eliminate or reduce differences with Montenegro.

However, in February Belgrade has been taking steps to establish customs controls of the Serbia-Montenegro frontier, given that many Montenegrin tariffs are still lower, with Podgorica's budget receiving the customs revenues of products entering, for example, the port of Bar. (Being *de facto* a free trade regime between Serbia and Montenegro, goods of Montenegrin origin enter Serbia free of tariffs, and vice versa).

Both Belgrade and Podgorica envisage a customs union, but as an exclusive function of the Union in Belgrade's view, while Podgorica envisages a cooperative and coordinated regime.

It would in any case advisable to link trade policy with the wider regional and European policy context. Serbia and Montenegro could work actively together in favour of a three stage strategy: [1] to complete free trade for the whole of South-East Europe in the very near future, [2] preferably also in conjunction with applications to join CEFTA (as Croatia does already, with Romania and Bulgaria already members of CEFTA), but this would take a little more time, and [3] for the whole of the region to join in the enlarged EU custom union (which includes Turkey already), which calls for imaginative leadership from the EU itself.

Overall, the attribution of trade policy competence between Belgrade and Podgorica should not be made into a major stumbling block, since this function is due to be unified and merged with EU trade policy in due course in any case. However in the short-run Montenegro should not be forced to revert to a more protectionist trade policy. Better, Belgrade's policy would move towards to the more liberal policy of Podgorica, since that would be in any case a useful step towards trade policy integration with the EU.

Taxation and the budget. The Belgium-Luxembourg Economic Union for a long time offered an example of tax coordination alongside monetary union. Over time the EU dimension to tax harmonisation has become more important, with a common VAT system and limited harmonisation and/or coordination for excises, the taxation of savings and technical subjects such as double tax relief. A similar scenario could be envisaged for the Union.

For the immediate future it is probably best that both Serbia and Montenegro proceed as best they can with their own tax reform agendas, while retaining the prospect of convergence on EU tax policies. EU integration becomes a factor for efficient convergence of Serbian and Montenegrin policies.

The EU, and in particular Italy and Greece as neighbouring states, are concerned about the cigarette contraband trade and consequent loss of tax revenues for their own budgets. Solutions are not difficult to envisage. For example Montenegro could introduce levels of excises within the normal bands for EU excise policy. The EU could offer to Montenegro increased cooperation in the policing of its coast and land frontiers. Since EU states would recover very large sums of tax revenue, there could be devised some special transitional arrangements to help development of the regular tourist economy of Montenegro.

The budget of Montenegro is now completely separate from Belgrade. No system of inter-governmental transfers remains. Areas requiring cooperation will surely include social security and pension entitlements for people with high mobility between Montenegro and Serbia.

Infrastructure. A special development programme for Montenegro's economic infrastructure could be readily devised on the basis of feasibility studies already undertaken. The main projects that would be keys for the rapid development of Montenegro's natural specialisation in the tourism, port-transit and hydroelectric sectors could be:

- Technical modernisation of Podgorica and Tivat airports.
- Construction of the Verige Bridge over the Boka Kotorska bay crossing, an important missing link in the Adriatic highway.
- Improvement of the coastal road network.

- Acceleration of the coastal water pipeline project.
- Sozina road tunnel on the Bar-Podgorica highway.
- Investment in a dam and hydroelectric power generation, jointly with Bosnia.
- Upgrading of the regional electricity network, running into Bosnia, Macedonia as well as Serbia.

The EU, EIB, EBRD, and IBRD would be leading financiers of these projects, whose cost over a period of about five years might be of the order of 150 million euro. The EIB submitted in September 2000 a report on priority infrastructure investments in Montenegro, but implementation is held up because of the constitutional uncertainties.⁸

International financial institutions. Montenegro's ambiguous constitutional situation makes access to the international financial institutions currently impossible. Regarding the IMF this is less of a disadvantage than might seem, since a fully euro-ised Montenegro will have little or no need for recourse to the IMF credits. The World Bank only lends to sovereign states. The European Investment Bank (EIB) requires guarantees for its investment operations, which the EU Council of Finance Ministers is not willing to extend to Montenegro at present. It would be unfortunate for these institutions to force the choice between an unnatural federation and outright independence. Montenegro has clear economic development priorities, for example for the coastal infrastructure linking with the Croatia, which it wants to pursue without political or bureaucratic hindrance from Belgrade.

If Montenegro went along with the wishes of the EU and international community to abstain from outright independence, then the World Bank, EIB and EBRD should deal with an autonomous Montenegro directly, and find solutions in their own procedures for this case.

Justice and home affairs. As a matter of political and economic strategy it is vital for Montenegro that its frontiers be completely open for tourists and business visitor from the EU. It should therefore go for unilateral visa-free access, just as many EU accession candidate states have done, while adapting their own justice and home affairs policies to EU standards. Serbia would be well advised to do the same.

Montenegro may want to modernise its police and judiciary very rapidly, in which case it should receive every assistance from the EU. Montenegro could autonomously begin the process of convergence on the EU's growing

⁸ *Basic Infrastructure Investments in the Republic of Montenegro*, report to the Ecofin Council of the Balkan Task Force of the European Investment Bank, 29 September 2000.

acquis in the domain of justice and home affairs. If Serbia wished to do the same, that would be even better.

Foreign policy. At the level of formal international recognition (UN membership) the Union could be one entity. However this does not impede a high level of autonomy in external representation. The Union's diplomatic missions could include units nominated by and answering to Montenegro (such as is informally the practice in Bosnian missions). In certain cases there could be separate missions, able to represent the interests of Montenegro. Such representations exist for many entities other than formally recognised sovereign states, especially in Europe. Various international conferences and organisations have shown the flexibility needed for substantive business to be conducted by the most relevant parties, with many possibilities for sub-sovereign state to make external agreements. Montenegro is already participating in the Stability Pact.

Political institutions. A full federal structure of institutions with overlapping ministries and a bicameral legislature looks on the heavy side for this 'asymmetric union'. The lighter confederal structure proposed by Podgorica with a single parliamentary body with parity of representation and a bilateral Council of Ministers with rotating presidency looks be more suitable. An alternative model could be for Montenegrin members to be elected to a single parliament in Belgrade, but with restricted voting rights on legislation only having effect in Serbia.

Such a structure, and the design of the Union, could be provisional. There are several examples of confederations giving way after a period of years to federal structures. Indeed this has been the experience of the US, Canada, Germany and Switzerland during the course of their histories. It is quite possible that a few years of normalisation of relations between Serbia and Montenegro and restoration of a high level of mutual trust, as well as their common European integration, might lead the two parties to wish to revert to a more federalist form of government.

European policy. While the Union may negotiate a Stabilisation and Association Agreement with the EU, Montenegro could negotiate a special Protocol linked to that agreement, but containing individually negotiated provisions, some of which have been suggested above (taxation, money, trade, customs). There would be a good case for the EU to show special understanding in the case of a Montenegro which, as part of a Union with Serbia, also had the will and organisation to advance fast towards meeting EU standards and policy norms within the scope of its competences. Such an understanding might translate into a special status as a 'European autonomy', which was nonetheless part of the Union with Serbia. There already exist positive examples of highly autonomous and successful special entities within EU member states, including for example the case of Catalonia in

Spain. The EU needs more generally to devise incentives and opportunities for entities which want to integrate faster with the EU than the evolution of the EU's own institutions allows. In the particular case of Montenegro, where the EU and international community are anxious to avoid potentially destabilising demonstration effects on other regional entities, and indeed to create positive demonstration effects, the EU should be imaginative in negotiating a special Protocol, giving it real political and economic content.

EU involvement in the process. Given the important European integration dimension to a possible solution, it is highly desirable that the EU makes available a forward-looking view of the place of the Balkans in the European Union. The various European policy dimensions summarised above are complex and often quite fast moving subjects. As the above examples have shown, there is the need to work out this forward-looking view in more concrete and immediately operational terms than mere declarations about long-term perspectives.

7. Conclusions

The position papers of the Government of Montenegro and of President Koštunica on the future of the Serbia-Montenegro relationship are significantly different, one advocating a federal model, the other effectively a confederal model. However both wish the future to include the European integration dimension, and the threat of use of force in finding the solution is fortunately absent. Moreover every effort should be made to find a solution which would set a new standard for the Balkans. This would reject old-fashioned nationalism, which in modern Europe and the EU in particular has been overtaken by complex structures of multi-tier governance, interdependence and shared sovereignty.

In concrete terms a European solution for Montenegro might take into account the following elements:

- There is a good case for retaining common citizenship for the peoples of Montenegro and Serbia, who are brethren, not enemies. To divide them as a matter of legal rights would pose problems. Separate national identities can be respected and indeed fostered in other ways.
- There is a good case for Montenegro to retain the key elements of its recent economic and monetary reforms, including a low external tariff and the DM/euro as the currency, and autonomy over of ongoing microeconomic reforms. Serbia has an enormous agenda of economic and monetary reform to address, and this process should not retard or reverse Montenegro's own reforms. In any case EU integration provides the road-map for re-integration. To say that Montenegro is too small to

prosper as an autonomous economic unit is complete rubbish, for Europe is full of very prosperous and small entities.

- Montenegro has specific needs for infrastructure and other investments, especially relating to its coastal economy, and these should be supported by full access to the EU and International Financial Institutions, and procedures should be adapted to the needs of the situation.
- Montenegro's security does not really need a substantial army in the new context of a democratic South-East Europe integrating with the EU, not does it need an army controlled in Belgrade. Specialised coastal and border services are needed, and the EU could help make these efficient.
- Belgrade does not need an overlapping structure of federal and republican institutions, where the federal model is now a complete fiction. If there is to be a form of asymmetric union between Serbia and Montenegro, this can be done with a single set of government departments in Belgrade.
- The old notion of the 'internationally recognised sovereign state' becomes increasingly diluted and symbolic in the new Europe, especially for its many small states. There are ways of organising external representation, which avoid costly duplication, but allow for decentralised powers. Apart from issues of symbolism, there remain really important questions of demonstration effects on other parts of the former Yugoslavia, which are not yet stabilised. Montenegro could in fact become a new model example of multi-tier European governance.

This suggests that there could be room for a 'European solution' between the two official positions presently on the table. In essence this could lie somewhere between federal and confederal models. Legal purists may object, but the EU itself is a compromise between the federalist and confederal. The solution could also draw on the example of several soundly functioning 'asymmetric unions' between two entities of very different size. If the solution could have these qualities, it would deserve the active support, both political and economic, of the EU and international community.

Panel Discussion of Session I

Chairman Gareth Evans (ICG) asked participants to consider three questions concerning Montenegro's situation:

- Is the status quo sustainable?
- If not, what are the options?
- What is the process for moving forward on one or another option?

He suggested participants consider whether the FRY constitutional structure is still a living document, a dead letter, or, as ICG has argued, in process of dissolution. It is clearly dysfunctional but that alone is not decisive since muddle does not always require clarity. The issue is whether the FRY's dysfunctionality is sustainable.

If there is need to move beyond the status quo two basic types of options exist for Montenegro and Serbia: 1) maintain a common sovereignty; 2) have separate sovereignties whether or not in some kind of union with certain common functions; and 2a) separate sovereignties with no union and no common functions. Evans hoped participants would consider the pros and cons of each option from the viewpoints of both Montenegro and Serbia and also the wider implications of the independence options for the rest of the Balkans, especially Bosnia and Kosovo.

Finally the conference should discuss process (timing and sequence). If there is to be Montenegrin independence, should it be through a unilateral process as President Djukanović proposes? A second set of procedural questions relates to the form of a referendum, including who the voters should be, what majority is required, and whether the result would be self-executing. He identified a third set of questions respecting a Montenegro-Serbia dialogue, in particular, whether it should be direct or mediated, and, if the later, by whom.

Professor Mijat Šuković of the Montenegrin Academy of Science argued that the existence of a state can be determined under international law with almost mathematical precision. Montenegro meets the standard conditions, including history, international recognition as far back as the Berlin Congress (1878), the recognition accorded by a series of Yugoslav constitutions, the distinct cultural identity of its people, and borders that have been acknowledged as state borders. The present Yugoslav Federation is unnatural. The two states of Montenegro and Serbia are factually independent, and the structure that links them is no longer a living one. Since living structures must be accorded priority over dead ones, there is a need to come to grips with the living reality of Montenegrin independence. Montenegro, Serbia and the international community should search for

solutions that confirm realities, not attempt to reconstruct a dead Yugoslavia which would, in turn, deconstruct what has been built up in recent years in Montenegro.

Professor Vladimir Goati from Belgrade University said Montenegro will soon choose in an election and referendum between independence and cohabitation. The trend toward independence is not new. It appeared at the start of the 1990s as Yugoslavia began to disintegrate. The 19 per cent that favoured independence in the 1992 referendum have now probably become a majority. The change was spurred by Montenegro's conflicts with the Milošević regime. While some say the trend has been encouraged by political parties greedy for power, almost certainly a large majority favours independence. This suggests that the parties favouring independence will win both the April elections and the subsequent referendum. Nevertheless, these votes will not solve Montenegro's problems. Society is deeply divided on the independence issue, with a significant element seeing no future without ties to Serbia. Montenegrin political processes need to reduce the risk of ongoing grudges. The winners of the votes should negotiate with the losers and use dialogue so that all groups in Montenegro "think from the same handsheet."

Srdjan Darmanović of CEDEM said that the statehood issue has increasingly dominated Montenegro's politics throughout the past decade. For a long time concern about the stability of Montenegro held back the movement. Now that this concern has disappeared with Milošević's fall, the issue is even more in the forefront. Over the past year, polls have indicated a sizeable and steady majority, between 55 and 57 per cent of the population, in favour of independence, and there is no reason to expect a change in the near term. President Djukanović's party is likely to win the April election and call a referendum within 45 days. Support for independence is strongest among Montenegro's political and cultural elite. The international community is acting unrealistically, as it did in the early 1990's when it planned only for the less likely outcomes of the political crises in Croatia, Bosnia and Slovenia. It needs to prepare itself to adjust to Montenegro's independence.

Dragan Šoæ of the People's Party of Montenegro said that the best perspective for Montenegro is presented by what was official policy in Podgorica until a few months ago. This includes a loose framework of union with Serbia that maintains a small number of common functions and institutions (i.e. defence, foreign affairs and transport). This is something in between Koštunica's and Djukanović's policies. The solution could be a confederal pact in a federal framework that would protect Montenegro's interests. Developing successful democratic institutions involves more than merely resolving the question of statehood. Thirty percent of Montenegrins live in Serbia. Sixty percent of Montenegrins have close ties to Serbia in one form or another (i.e. family in Serbia). Unilateral independence for Montenegro would produce difficult reactions in Kosovo and Bosnia and

reduce Montenegro's international aid from the European Union and other international bodies.

Michael Emerson of CEPS said that Montenegro clearly has a right to independence but if that right is exercised it needs to be by a substantial majority. With respect to whether Montenegro and Serbia can share a degree of common sovereignty, it is instructive to look at a number of other unions that are unbalanced in size, population and similarly important indices. Belgium and Luxembourg, and Russia and Belarus, have certain types of unions but the participants remain independent states. England and Scotland, and Tanzania and Zanzibar are two different cases where the participants in a union are not independent. Whatever the future shared relationship, Montenegro's economy should not be returned to the dinar, or pushed from its present 4 percent average tariff into conformity with Belgrade's 19 percent average tariff. There can be such differences even in a common state since undivided sovereignty is an increasingly outmoded concept. Regardless of what the Montenegro-Serbia relationship eventually becomes, it is possible to have a special Montenegro-EU relationship.

Daniel Serwer of the US Institute of Peace said he brought little wisdom from Washington, where the US government was opposed to Montenegrin independence. Some American officials mistakenly believe the entire independence issue merely reflects President Djukanović's ego. Turning to the process questions the chairman asked: no work done by outsiders can substitute for what the Montenegrins and Serbs themselves do. The international community's real interest is regional stability. The serious concern is the impact of Montenegrin independence on the Republika Srpska, even though the legal and historical situations of Montenegro and RS are completely different. Nevertheless, unilateral Montenegrin independence would create problems in the RS. Discussion, agreement, at least a framework for the future Montenegrin-Serb relationship needs to be worked out first. The issue of UN membership may be difficult to resolve. Montenegro and Serbia should use the time before the April election to work on very practical questions like citizenship. Official talks should start April 23, the day after elections and ahead of the referendum. Everyone's interests can be served in a cooperative process.

Gerald Knaus of the European Stability Initiative said it is easy to devise unsustainable short-term solutions for the Montenegro-Serbia relationship as was done often in the earlier Yugoslavia. The responsibility of the international community is to help in finding a sustainable long-term solution. Serwer is right to state that process is the key component and cannot be rushed. It is worrying that there is no serious debate in Serbia about what it wants in a new federation, what this would be worth, and what can be given up. Serbia needs to think such questions through if a sustainable solution is to be found. Until Serbia does so, it will not be able to focus on

the real economic and political problems it needs to solve at home. On process, ESI has written a paper that calls for an EU role. This is controversial, but it was proposed in the conviction that the EU must rethink its real interests. If it takes on a mediation responsibility, the EU would, in effect, be forced to think through all the implications. Serwer is again right on the need for the parties to begin the process of discussing and resolving practical “nitty-gritty” issues. They have failed to date to consider seriously what functional integration requires; this is a poor omen for an agreed result.

Zoran Kusovac of Jane's Geopolitical argued that the strategic interests of Montenegro and Serbia, as indicated in the two published “platforms” for a future relationship, are competing or incompatible. For example, Montenegro looks at the military policy issue from a “security” point of view. Serbia looks at that issue from a “defence” point of view. Such an analysis suggests Montenegro has every reason to opt for independence. “Yugoslavia,” is a loaded term in the region. Montenegrin independence is a necessary step to produce the final dissolution of the Yugoslav idea, as is resolution of Kosovo's status. The Yugoslavia idea needs to “hit rock bottom” before some co-operation becomes possible. Serbia has as yet developed no proposal for how Kosovo could be viably retained. Any attempt to organise a new union of Serbia with Montenegro and Kosovo would be a nightmare for Serbia from all aspects – political, economic and security. The international community needs to help Serbia see where its real interests lie.

Open Debate

At the start of the discussion period, *Dragan Županjevac*, the Yugoslav Chargé d’Affaires in Brussels, asked for the floor to remind the audience that, as several speakers had said, there are deep historical links between Montenegrins and Serbs and long time aspirations for a common state. There are now two democratic governments, both of which want many of the same things including integration into the EU and other European structures. As recently as 1992, Montenegrins voted overwhelmingly for union with Serbia. The problems came after that vote and because of “the dictatorship.” Since Serbia now has a new government, it should be possible to work through the differences between the expressed positions of the two governments. He concluded with the observation that the Belgrade point of view should have been officially included in the conference and that the larger Montenegrin opposition parties should likewise have been accorded participation.

The Chairman (*Evans*) asked participants and the audience to use the remaining time to consider the virtues and vices of, on the one hand, the unilateral procedures toward independence described by President Djukanoviæ, and on the other hand, some process of extensive dialogue or mediation. In addition to these questions, a number of points about the rights

and attitudes of minorities in Montenegro and the reasons for the change in Montenegrin public opinion about independence during the past decade were discussed. Among the notable comments:

- *Šoæ* observed that there is a deep cleavage of opinion in Montenegro. This should not be a problem as long as democratic mechanisms are used. The question is whether or not a referendum is needed by June? The international community will ultimately accept any decision, he said, if Montenegrins can overcome their divisions. The UN seat question is not really important, but it should not be assumed that Montenegro's processes will automatically produce the best result. The conditions for a referendum and the terms for confirming the voters' will are the keys to whether the best results are, in fact, obtained.
- *President Djukanoviæ* said that at the time of the 1992 referendum Montenegrins did not trust enough in their own capabilities. Now Montenegrins have more self-confidence in their ability to handle their own affairs. This is why public opinion has shifted as it has on independence. Montenegro has a long tradition of a multi-ethnic civil society. Minorities have the right to vote. One can always question whether, say, 70 percent is a sufficient majority to pass a referendum, but "are we to accept the will of the majority or the tyranny of the minority." He expects the April election will be won by the parties that favour independence. Those parties will then have a moral responsibility to offer a referendum. Independence may be in a union with Serbia if the Serbs want this or it may be without such a union. In either event Montenegro's independence represents no threat either to Montenegro or to the region.
- *Serwer* said that it was almost impossible to conceive of serious negotiations between Montenegro and Serbia without a date being set to provide impetus to the parties.

The Chairman (*Evans*) said in concluding remarks that none of the participants and no one in the audience appeared to support the view which seems to be driving US and EU positions, namely that a new independent state in the Balkans would be a negative result. In fact, he said, there appeared to be an encouraging measure of common ground in the morning's discussion.

Session II
***Balancing the Equation between
Public Finance & Foreign Aid***

**The Economic Situation & Economic Reforms
in Montenegro**

*Veselin Vukotić**

I. General Considerations

Since 1989, Montenegro has had negative economic growth or a decrease in total income. In 1989, Montenegro's GDP was \$1.4 billion; in 2000, it was \$700 million (declining by 50% in one decade). In 2000, a positive GDP growth was registered for the first time in ten years.

This trend was influenced by the break-up of the former Yugoslavia, wars in Slovenia, Croatia, Bosnia and Kosovo, the NATO bombing campaign, sanctions imposed by the international community, political pressures and instabilities, hyperinflation, etc.

In order to explain the current economic situation, however, we must first answer two questions:

- What was the key cause of the radical economic downturn from 1989 in Montenegro until today?
- Can long-term recession be stopped quickly?

There are two major, endogenous causes of the economic downturn in Montenegro:

1. *Political factors*, or a slower transition of the political sphere in Montenegro and Serbia and their democratisation, which allowed daily politics to dominate the economy.
2. *The economic system* – a reluctance to abandon a way of thinking that is based on the past, which held that the state is a major player in the economy, that industry is basic sector in economy, that the financial system doesn't allocate savings and that citizens can reasonably expect government to solve all their problems.

Can this trend towards an economic downturn be stopped in the short term?

In response to this question, we will point to the most important cause of the economy's downturn: Montenegro and the whole Balkan region have delayed the transition process, unlike the other South-East European

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countries. We are implementing a so-called *delayed transition*. In fact, serious reform in Montenegro only started in 1998, which was instigated by:

1. Political changes in Montenegro,¹ and the
2. Beginning of support from the international community.

That is the period when the concept of *economic sovereignty of Montenegro* began to be realised. It was also a period when people lived in dire fear of provoking a conflict with the federal authorities and the army. Put simply, Montenegro was living in a cage with a python at the same time that it was trying to proceed with economic reform. In the meantime, Montenegro survived the NATO bombing. Combined, these causes speeded up reform and produced results.

Any further delay in the implementation of economic reform would be catastrophic for the economic and political stability of Montenegro and would thwart further development of the transition process.

II. Macroeconomic Indicators

Does Montenegro enjoy macroeconomic stability? Perhaps the prior question to ask is whether one can expect macroeconomic stability to prevail in an economy that has survived three distinct shocks:

1. Recession (a 50% decrease in GDP by 2000 from the 1989 level);
2. Demographic chaos (an increase of the population by 13% over the last ten years, including a large influx of refugees); and
3. Delayed transition process (at least seven years compared to Eastern European countries).

Try to imagine the economy of your country subjected to these three shocks? Estimate the GDP and the population in your country under these conditions.

The macroeconomy of Montenegro is characterised by three essential disequilibria:

1. External disequilibria, comprising three major components:
 - a. external debt of \$567 million (vs \$12.2 billion debt of FRY);
 - b. a negative trade balance in 2000 of \$193 million or 26% of GDP;² and

¹ The beginning of government run by an anti-Milosevic coalition.

² This data should be analysed in the context of the introduction of the DM as legal tender and the freedom of individuals to use the DM according to their preferences and interest.

- c. positive flow of citizens' transfers from abroad.
2. Internal disequilibria, characterised by a high unemployment rate. In Montenegro, the number of employees totals 142,000 of which 54,000 (38%) work in the non-economy sector and 88,000 in the economy sector. There are some estimates that 15-20,000 employees work in the informal sector. The unemployment rate is 28%.
The creation of productive employment represents the major problem of our economy.
3. Budgetary disequilibria: The budget deficit in 2000 was 156 million DM, or 12% of the GDP. If non-budgetary payments are included (pensions, health), then it becomes almost 17% of GDP.

Despite the disequilibria, current economic activity reveals several positive trends, e.g.:

1. Industrial production has grown by 3.7%.
2. Average wages have increased by 21%.
3. The employment rate has increased by 2.2%.
4. In December 2000, the CPI was 2.5%; the RPI, 1.1%.
5. GDP growth rate in 2000 was 4.5%.

How can macroeconomic equilibrium be achieved?

Disequilibria problems have been solved as a result of two simultaneous processes:

1. Support from the international community. The EU has contributed 35 million euro and the US, \$52 million. All budget and non-budget deficits were fully financed by foreign aid.
2. The carrying out of economic reforms in Montenegro and economic rehabilitation and reconstruction, as evidence by economic indicators from 2000.

We understand that support from the international community provided macroeconomic stability in Montenegro, thereby creating conditions for *faster economic reform processes, the establishment of new institutions and the integration of Montenegro into regional markets, especially markets of the former Yugoslavia*. Without that support, our reforms would be less successful.

In light of the current high budget deficit, two questions need to be raised publicly:

1. Can Montenegro conduct economic reforms at the present time, without foreign aid, and at the same time provide for macroeconomic stability, especially budgetary equilibrium?

The answer is no. A budget deficit in all transition countries at the beginning of the reform process is considered quite normal, especially when one considers the three shocks mentioned above. For example, in Bulgaria, it was about 11%, in Hungary between 6 and 9%, Ukraine from 9-25% and Russia, 4-9%.

As a result of the sudden increase in wages in the public sector (which is a consequence of the increase in the minimum wage negotiated by the Government and labour unions), budgetary expenditures for wages will be increased by 13%, while social benefits will be increased by 23%. I expect that this rapid increase, combined with the decline in foreign aid and the political situation (elections and the referendum) will create additional problems for the Montenegrin budget and the country's macroeconomic stability in 2001.

In light of attempts to solve the problem of the budget deficit, strict control over wages in public sector is crucial. In the meantime, Montenegro will continue with radical reform of its fiscal system. A new GFS budgetary classification has been implemented, which increases the transparency of the budget and its monitoring, and above all, increases tax collection, which in turn increases budgetary revenues. The Institute for Strategic Studies and Prognosis (ISSP) in Podgorica, estimates that almost 35% of the budget deficit can be financed if the informal economy is included.

According to ISSP, if Montenegro accelerated the reform trend, it could reach a budget deficit of less than 3% of GDP by 2004.

2. Does Montenegro possess the necessary resources, human capital and government organisation to finance itself independently, and can it finance itself in the long term from its own revenues? The answer is yes.

These two questions are connected, but must be dealt with separately. I don't belong to the school of economists who take a resources approach to development and industrialisation. I put greater faith in services, knowledge, information and organisation. Expressed in another way, I think underdevelopment is caused more by spirit than a lack of resources in any country.

Beyond that, however, Montenegro is no the Sahara Desert. It is, above all, a part of Europe. It is a Mediterranean state and the sea has always served as a civilising influence.

Montenegro possesses many production opportunities:

- Agricultural potential (fruit, vegetables, food, vine, fish).
- A coastline 293 km in length.
- The possibility of producing 100,000 tonnes of aluminium.
- The capacity to produce 400,000 tonnes of raw iron.
- The capacity to produce 1 million tonnes of bauxite.
- The capacity to produce 75,000 tonnes of salt.
- The capacity to produce 2.7 million tonnes of coal.
- Services: Brodogradilište Bijela with potential capacities in physical units of 2,800,000 and values of \$30 million.
- Port of Bar and overseas and maritime industry.
- 6.6% of the total population has attained a high level of education, representing 20% of the active work force.
- 13,244 privately owned companies, or 85% of the total number of registered companies.
- A special opportunity of Montenegro is tourism. According to estimates of a German firm – DEG, a financial company that has developed a tourism strategy for the country Montenegro could earn revenues of 1.6 billion DM from tourism over the next 15 years, not including the multiplication effects. Of course, this assumes huge investments and an increased level of services. During the previous year, Montenegro earned 20 million DM in revenues from foreign tourists. (See Appendix 1.)

I personally believe that, above all, an important resource for Montenegro is the intelligence of young people, which is the basis for software development, the basic resource in the information economy, and sport, which is becoming an important part of economic integration. The mentality of Montenegrins doesn't correspond to the traditional patterns of industrial development. We must adjust our concepts of the development of Montenegro to take account of the Montenegrin mentality and our traditions.³

³ The ISSP has begun research in this area (the relationship between mental characteristics of people and development).

Despite all of our resources, I believe that they will be of value only if Montenegro continues to build a new economic system, new institutions, new rules of the game, new laws and new ways of thinking that will provide integration into the region and Europe and develop modern concepts of state organisation. The building of a new economic system based on European standards is a precondition for solving the majority of the problems faced by Montenegro today.⁴

Thus, Montenegro doesn't have problems with resources, but rather has difficulty in creating institutions that would strengthen the competitiveness of Montenegro in regional and European markets. The problem of statehood status should be viewed from this perspective. The prospect of attaining statehood should act as an additional incentive to introduce democratic and economic reforms in Montenegro. Would it be easier for Montenegro to conduct reforms as an independent country or as a part of a federation with Serbia?

In ISSP's estimation, Montenegro would solve the problem of its budget deficit and all the other problems more efficiently as an independent state. Montenegro and Serbia have different economies in terms of:

- *size* (Serbia is almost 15 times larger)
- *the structure of the economy* (Montenegro is oriented towards tourism and services, Serbia on agriculture and industry)
- *the character of reforms* (Montenegro has been oriented towards private ownership and the market, and Serbia on the government's role and domestic currency – dinar, as precondition for development) and
- *the size of the reform conducted so far* (Montenegro started reform processes three years ago, whereas Serbia is only preparing to start reform processes now).

Also, there are big differences in economic power which make *Montenegro unequal to the federation in running monetary policy* (Montenegro represents only 8% of the total federal economy, excluding Kosovo); and its influence

⁴ For purpose of clarifying my attitudes, I present the opinion of James Buchanan, winner of the Nobel Prize for Economics: "The economic system is defined by structure, rules and institutions which limit the choice of individuals in interrelated interactions in the market. The transmission of the market into a free market structure is a convenient subject of reform, together with institutions, which provide the application of laissez-faire to operations in structure and render as nonsense all proposals for reforms based on nationalistic goals and all arguments in favour of leadership of political factors." (J. Buchanan, *The Economics and Ethics of Constitutional Order*, University of Michigan Press, Ann Arbor, Michigan, 1991).

on monetary policy would be insignificant. This structure cannot be changed if Montenegro is equal in Central Bank governance, because votes cannot change power, size or the structure of the economy. It can be applied on fiscal, custom tariffs, foreign trade policies. (See Appendix 2.)

According to existing ways of financing the federal budget, expenditures for Montenegro would be 150 million DM or 10% of GDP, or 35% of current Montenegrin budget expenditures. This amount would be spent only for federal administration (army, employee, embassies) so it would be pure cost for Montenegro. *Montenegro doesn't have the capacity to finance two administrations: the federal one and the republic.* Thus, the most rational economic model is a union of two states, or, two states with one economic system, instead of the current situation, which consists formally of one state with two different economic systems.

Montenegro has its own administration, several representative offices abroad and does not need an army. Therefore, the question remains: Why should Montenegro pay 10% of its GDP for a federal army that it doesn't need (according to the existing Constitution)?

This is the essential question driving the research team of ISSP. The federal budget basically covers expenditures for the army and federal administration. Why do we need federal state, from an economic point of view, because of the army and the administration?

If economic reform in Montenegro were conducted at the federal-state level, the process of establishing institutions for the new economic system would be much slower and our institutional dependence on institutions in Belgrade would be perpetuated.

In that sense, Montenegro would inevitably become peripheral. It would become a region whose reforms, their speed and character, would depend on the federal level. There raises the question: if Montenegro and Serbia are determined to introduce a European economic system and if Montenegro has already circled its economic system at that basis, do we need a federal level for conducting economic reforms? Do we need mediator between Podgorica and Brussels? Between the Serbian government and Brussels? According to the theory of transaction costs of Nobel Prize winner Ronald Coase, a federation would increase the costs of Serbia and Montenegro to join Europe. As an economist, I haven't heard any public reasons justifying the economic costs of forming a federation and the additional transaction costs of Serbia and Montenegro joining Europe.

One hears two contradictory statements:

1. We want a federation where Montenegro is equal.
2. Montenegro can't survive economically as an independent state.

If one pleads for Montenegro to join the federation on grounds that it cannot survive economically on its own, this raises the question: how can one be equal with one who supports you and to whom you are asking for money? As an economist, I don't understand that concept of freedom, even though I have studied the concepts of Adam Smith, Mill, Hayek, and others. Or perhaps I am too much under the influence of Dostoyevsky who said "money is malleable freedom".

In the context of this opinion, I wish to make two additional statements:

1. Montenegro today has a budget deficit. That deficit exists no matter whether Montenegro is independent or not. The budget deficit would be sooner or later paid by the taxpayers (citizens) of Montenegro. No one expects the international community to finance that deficit in the long term. It is necessary to accelerate the creation of conditions on both sides, budget revenues and expenditures, to be able to apply the principle that "level of revenues is a measure of consumption".
2. Montenegro has to orient itself to a wider market, to encompass the republics of the former Yugoslavia, the Balkan region and the European Union. It is up to Montenegro to implement an economic policy and an economic system that realises the country's potential by integrating Montenegro into the European economic area. This means creating an open, stable market economy through the introduction of further economic reforms

III. Economic Reforms in Montenegro

As I have said, Montenegro has launched a process of economic reform. The economic system is in place and related laws are in the process of being formulated. Reforms have started on the broad front of structural and macroeconomic reforms, in order to introduce capitalism to Montenegro.

A key axis of structural reform is privatisation.

The generally accepted political attitude in Montenegro is that all state property may be privatised. The legal framework that enables transparent privatisation has been prepared. According to the Montenegrin concept of privatisation, the emphasis is being placed on strategic investors from abroad, because we don't have them in Montenegro. Our motto is: "We are not selling companies, but buying strategic investors". To date, 25% of total capital has been privatised. We are expecting additional privatisation of 35-40% in this year: through mass voucher privatisation about 27%, through the sale of a tobacco company (which is in progress), Telecom of Montenegro for which tender will be published by end of March 2001, through the sale of a few hotels (tender has been published for three hotels), and in March, a batch sale tender will be published for 17 Montenegrin companies. For the

last year, we have been preparing a tender for the sale of the Electrical Power Company of Montenegro. An international conference on investment in tourism will be held in May, and Montenegro is suggesting 40 projects for international investors. By word of mouth, the process of *radical privatisation* has started. For all tender privatisation, according to law, we have international financial and legal advisors. With experts from US AID, the EU, DFID and financial and legal company advisers, we have about 100 foreign experts in Montenegro today. Together they lend a character of transparency and expertise to our overall reform effort.

In the area of monetary reform, we have made even more progress. The DM is legal tender, which was one of the most important reform decisions taken in Montenegro. By introducing the DM, Montenegro has determined that it will not restructure its economy by inflation (printing money), but through real restructuring. In that way it is preparing its economy for international competition. At the same time, we are establishing a non-inflationary environment to encourage development of the financial sector and to decrease the investment risk.

Implementation of the *Central Bank law* is in progress. The *Banking law* has been adopted, which together with the Law on Privatisation, forms a basis for reconstruction and privatisation of the banking sector. The process of restructuring the largest state bank, Montenegro Bank, has begun. The first foreign bank has been opened in Montenegro. Four management companies for handling privatisation funds have been established.

The *Security Papers law*, which regulates the financial market and the capital market, has been adopted. Moreover, the Montenegrin Securities Commission, the Central Depository Agency, the Montenegro Stock Exchange and a few brokerage houses have been founded.

1. *Fiscal reform and the introduction of VAT* are proceeding. Accounting and statistical standards are being introduced. The transparency of the budget has been increased, and the figures are published monthly. The introduction of the DM and the international classification of the budget, as well as the elimination of disparity between prices for the most part of the economy of budget deficit has been achieved.

A *Foreign investments law* has been adopted – all barriers for foreigners are abolished, and international courts guarantee property and contract rights. Foreigners have same rights and obligations and procedures as a citizen of Montenegro. For more than one year, visas for Montenegro have been abolished.

New *regulatory mechanisms* for utilities are being established. For example, a new law on telecommunications has been adopted and a regulatory agency established, which is a precondition for privatisation of Telecom Crne Gore.

A regulatory agency for electricity is also under preparation. These agencies are directly responsible to the Parliament of Montenegro.

The total system of *foreign trade and customs* is under reform. Customs are being decreased from an average federal level of about 25% to 0-12%! We now work with greater professionalism at the custom service, and are giving formal training to custom officers in order to minimise possible misuse of their position and eliminate corruption and in order to meet the standards of the EU.

The effects of these reforms are becoming increasingly visible, but they are still overshadowed by tempestuousness of previous political events in our country. In 2000, for the first time in ten years, we experienced a growth in GDP of about 4.5%.

The Montenegrin economic system is striving to become a liberal market economy and a functional organisation based on the principles of a *microstate*.

The concept of a microstate is foremost a strategic vision. It is contrary to the vision of daily politics and even more contrary to a vision that sees the future of Montenegro in its past. The concept of a microstate makes a connection between our present situation, the economic reforms in train and the strategy for development pursued by Montenegro. This concept encompasses, among others, the following principles:

1. The basis of the economic system is private property and capitalism (market). The direct role of the state in the economy is minimal. It is simply the keeper of rules and laws.
2. Macroeconomic policies (monetary, fiscal and foreign trade) are conducted according to rules and standards of openness, with a view towards European integration and the development of entrepreneurship.
3. Development of a professional, strong Montenegrin custom service in order to eliminate misuse, smuggling and corruption.
4. Development of a small (much smaller than today), professional state administration with high technological and personal standards.
5. Greater participation of private initiative in public affairs (education, health, promotion of foreign investments, promotion of entrepreneurship and ecological protection).
6. Montenegro doesn't need an army or any kinds of expenditure for that purpose (protection of the border has to be done by professional police and the custom service).
7. More professional and smaller police force than presently exists.

8. Government with few Ministries.
9. Limited number of trade and diplomatic representative offices in the world (restricted to only the most important centres – between 10-15).
10. Strengthened role and responsibility of Parliament for the state as well for the functioning of the economic system and especially the regulation of utilities, financial markets and the banking sector. Decreased participation of politics in executive power.
11. Further stimulation of development of non-government sector and the stimulation of initiatives from this sector.
12. Development of an entrepreneurial economy and an entrepreneurial class. Good companies should be more important than political parties.
13. An open economy: no intervention of import and export flows of goods, capital and people. Abolition of any visa regime and respect for the principle of reciprocity in establishing companies, banks, etc.
14. Functionally strong state organisation that protects contracts, property rights, citizen's rights and fights against corruption.
15. Removal from the state all functions that enabled, indirectly through political parties, the domination of politics over the free choice by citizens (for example, distribution of apartments, control over payment system and employment in the public sector).
16. A completely transparent budget and a transparent policy for managing the budget. Details can be changed only by Parliament.
17. In the administration of the microstate, conditions must be created for the realisation of principles of transparency, publicity and free choice of consumer, voters and citizens in Montenegro.
18. Social policy must be separated from all politics and from managing the economy. Social policy is the task of the state and the workers unions. The companies must provide the necessary resources.
19. National treatment of foreign investors and foreign companies and recognition of international courts. The gradual introduction of English alongside the Serbian language as the official language over the next 10 years.

This development concept of Montenegro assumes the following path of integration of the Balkans:

1. Monetary integration of Balkan territory (same legal tender).
2. Trade integrity (abolition of all barriers in trade).
3. Free the region of the obligation to underwrite military expenditures.

These three steps will lead to the development of markets and market integration. “And a market is the mechanism that turns enemies into friends”, as Hayek once said. That’s why I consider a free market as the only guarantee for peace and prosperity of this area. I know that we need time, knowledge and assistance. But I also know that the Balkans represent an important barometer of Europe.

Appendix 1

Prospects of Tourism Development in Montenegro, 2001-2020

a) Capacities at 2000 (estimation)

Total:	155,000 beds
- Main buildings (hotels, tourist camps)	38,342 beds (24.7%)
- Complementary buildings	116,658 beds (75.3%)

With regular engagement of all capacities, the possible tourist turnover would be 11-12 million nights.

b) Period from 2001-2005

Main characteristic: privatisation and improvement of quality of management, positioning at international market, modernisation of capacities, building new privately owned hotels, improvement of infrastructure, higher quality of products.

- Capacities in 2005 – 160,000 beds (40,000 basic, 120,000 complementary)
- Tourist turnover: 12,000,000 nights (days). Domestic turnover – 50% (Serbia –5, Montenegro 1 million nights)
- At the end of the 1980s, before the crisis began, Montenegro had a turnover of 11 million nights (foreigners – 36.3%)
- According to FLAG estimations, revenue was 250-\$300 million in 1990, and according to registered revenues, it was \$144 million
- Turnover from tourism in 2000 was 3,300,000 nights and consumption of tourist was \$70 million
- With assumption that performs are rehabilitate already, estimation for revenues in 2005 are \$300 million
- Actually, there is some estimation that indicators for tourism in 2005 will be equal as in 1990.

c) Period from 2006-2020⁵

Characteristics: Selective development of tourism, material base development, infrastructure improvement, restructuring of buildings, improvement of product quality

- Capacity will be 200,000 beds (65,000 basic, 135,000 complementary)
- Consumption will be 1.5 billion DM.
- The number of employees in tourism will be 45,000. This number of workers would provide sustenance for 135,000 citizens.

⁵ DEG Germany and Institute for Economic Research, Podgorica.

Appendix 2

Macroeconomics as a Form of Redistribution of Power between the State and the Market⁶

1. *Size of country and equality in domain of macroeconomic policies.* Size of country in domain of macroeconomic policies plays an important role. For example, monetary policy. Let's consider if the Central Bank of Yugoslavia was independent. It means that, according to the constitution, it is authorised to take care of the stability of prices and that it is completely autonomous in the selection of instruments by which it realises this stability (if it fails in this task, the Governor is replaced). In that case, having in mind that participation of the Montenegrin economy in Yugoslav is about 5%, and if we exclude Kosovo, about 8%, its influence on monetary policy would be irrelevant. *This could not be changed so that Montenegro is equal in determining Central bank policy, having in mind that by voting the size of economy could not be changed.* The same is valid for foreign trade policy, tax policy, etc.

2. *Relation toward type of economic reform in Serbia and Montenegro.* It is reflected as relation towards role of state and private property.

a. Montenegro is a microstate. It means that it should have small authority. Above all, this means that it should not be everywhere, and where the state does have authority, it should be very strong and strict in control. Macroeconomic policies in very small states do not have such large importance.

b. In Serbia, which is large (about 8.2 million citizens), it is believed that the state can do a lot and that there is a lot to redistribute (macroeconomic policy is a form of redistribution through interest rates, inflation, exchange rate, trade regime, etc.) and that conscious redistribution results in increased economic efficiency. In states the size of Serbia, this can be achieved, but not always.

3. Microstates such as Montenegro should basically rely on *private property*. The reason is that it is a small market and small markets cannot establish big company, banks and insurance firms. It further means that the economy of Montenegro cannot be too regulated or closed, that it has to be liberal and open. If the state is small, then big companies do not have special motive to "privatise" it, because it cannot provide special benefits. It means that there are no conditions for oligarchical system. The size of Serbia is sufficient that many businessmen will want to "privatise the state", i.e. to provide monopoly position that brings benefits. So they will be pleading for stronger regulation and activity of the state in the economy. There are always

⁶ See personal note by the author at the end of this paper on macroeconomic policy.

lobbies to do precisely that (lobbies of large-scale companies, agriculture, energy, etc.)

From this perspective (state and private property), the union of Serbia and Montenegro cannot function with same types of institutions. There are two types of economic reform arising from the size and structure of the economies of both republics.

Foreign trade. Here there are differences. For Montenegro, the best is the liberalisation of the whole region and liberalisation of trade with the EU. This means low custom rates and limited protection measures that are in accordance with the WTO.

Following this solution, the next best is a free trade regime with Serbia and liberal trade with the rest of the world (regardless of which regime Serbia has). The worst solution for Montenegro is a custom union with Serbia and competition protection policy with respect to the rest of the world.

It is important to know the fact that integration with the EU entails the gradual abolition of customs and non-customs limitations. Integration most often means liberalisation of trade of industrial products, while agricultural and some others remain under a protection regime of customs and quotas. Having in mind the importance of agriculture in Serbia and the strong lobby for their protection, this fact is more important for Serbia than for Montenegro. On the other hand, Montenegro relies on tourism and services, which requires complete openness of the economy.

4. *Monetary policy.* There is still no readiness in Serbia to give up the instruments of monetary policy, i.e. their own money and control of the Central Bank with the emission function. It would be good to recall the introduction of two quasi-monetary boards in Yugoslavia 1989 (Ante Marković) and 1994. (Dragoslav Avramović), both of which failed in about six months. In both cases, money had been printed for financing agriculture. Montenegro has already converted to the DM. This is an attempt to avoid inflation and to create conditions for greater inflows of foreign capital, because foreigners don't believe in domestic currencies. Capital is always afraid of inflation and doesn't go where the rates are high.

In this way, Montenegro has implicitly said that it wants to pursue solution to its problems not by printing money (inflation), but by creating conditions to increase productivity and restructuring. *Changes in the economic system (rules of the game) and the structure of the economy are far more important than monetary system and policy.* It is important for us to have as many foreign banks as possible. Foreign banks follow the approach of the Central Bank of the country where they originate and the existing Central Bank of the territory where they doing business.

5. *Fiscal reform.* Montenegro cannot withstand all the fiscal burdens that federal state imposes, especially the army. Should the federal level exist only because of an army, because it takes 80% of the budget? Will citizens give money for that structure of budget? Will they give money for army, for federal administration and their apartments, for Ambassadors,...

The federal level should not lead any macroeconomic policies, because it is authority of republics. If it does not lead macroeconomic politics, there is a question of how it obtains its sources of revenues? Perhaps we should look at revenues in the context of the contributions of the two republics? This means that there are no transfers from the union budget towards state members, i.e. there is no redistribution at the union level.

Although the transfer of Montenegro to real financing would not be easy, neither is it possible without foreign help. It means, as with all other countries in transition, that Montenegro will have a high budget deficit and covering that deficit requires radical reforms and establishing a new economic system. No one form of state organisation (sovereign Montenegro, federation, or union) automatically solves this problem. The question is only which form makes possible the fastest reform in both an economic and democratic context.

Personal note by the author on macroeconomic policy: Macroeconomic policy is an activity of the state in the area of economics. It encompasses decisions by the state and quasi-state bodies in the area of taxes, customs, interest rates, import regime, exchange rate, state investment policy, social policy, etc.

Macroeconomic policy is an expression of our belief that the visible hand of the state (conscious coordination of development) can give better effects than the invisible hand of the market. In theory, macroeconomic policy is associated with John Maynard Keynes (former UK Minister of Finance), who proposed that in order to find solutions to the problems caused by the great economic crisis of the 1930s (unemployment, decreased production) state should replace some functions of the market or stimulate the market (for example, public investments) in order to stimulate production. From that period onwards, macroeconomic policy has become a normal part of state activities.

But macroeconomics policy, according to the latest theory of public choice, should be understood as connection of politics and economics, connection between political parties and state, between consumers (in the economic market of goods, services, capital etc.) and voters (political market - Parliamentary, President, local elections). Both consumers and voters vote, first for producers whose goods they are buying and second for political parties. There are attitudes toward taxes, social policy, import, investments, etc. in the programme of

political parties. In states that have established institutions that are already functioning, the influence of the political cycle is smaller. In states without those institutions and especially in small countries as Montenegro, the influence of the political cycle, is great and most often results in economic instability.

In the final analysis, macroeconomic policy always means redistribution that is not the result of prices, i.e. market, but someone's conscious decision, someone from the top who sees it better than the market. Thus an increase in taxes means a redistribution of income from entrepreneurs and companies towards the state budget, respectively, social groups that are receiving help from budget. An increase in the interest rate means cash flow from investors (those who are taking loans) toward citizens from whose savings those loans are financed. Each redistribution has certain effects at the macro level.

Panel Discussion of Session II

Chairman Werner Rechmann (FES) asked participants to focus on the question of Montenegro's ability to generate public finance and attract foreign financial assistance, both in its present political circumstances and in future independence or non-independence scenarios. Related to this is the question of how much financial capital was actually needed to see Montenegro through its transition, ensuring sustainable social and economic development in the process.

Veselin Vukotić of the Montenegrin Institute for Strategic Studies and Prognosis presented a paper discussing the state of Montenegro's economy. He asked whether one could expect macroeconomic stability in a country that has had to survive three shocks: that of economic recession, demographic fluctuation and delayed transition. The three main disequilibria are external (foreign debt), internal (soaring unemployment, at 28%) and fiscal (the budget deficit in 2000 amounted to 10% of GDP.). A series of economic reforms have to be designed and implemented, and trends such as increased industrial growth encouraged, before macroeconomic equilibrium can be reached. To this end, the support of the international community is essential.

There is no question, however, about Montenegro's ability to survive economically as an independent entity. Montenegro has considerable economic potential linked to a well educated work force, raw materials, a sea coast and the Port of Bar.

The Montenegrin and Serbian economies are very different in terms of size, structure (Serbia focuses on agriculture and industry while Montenegro focuses on tourism and services) and the characters of the macroeconomic policies by which they are governed. The Montenegrin economy could be reformed more quickly independently of Serbia's. There is also a considerable cost implication for Montenegro in maintaining the Federation with Serbia, as it has to finance two administrations, which amounts to ca. DM 150 million, or 10% of GDP. The continued existence of the Federation would increase the costs of either country's integration into the European Union.

What is proposed is the concept of a Montenegrin microstate as a bridge between economic reforms and long-term development. Defining characteristics of such a microstate would be:

- Ultraliberal, very open economy
- Small government (few key ministries), no army
- Dual language system (including English)

A free market is a key to peace and stability in the Balkans.

Dragan Djuriæ, a representative of the Montenegrin trade unions, said the average salary in Montenegro is DM 300 a month, which is not enough to cover basic needs. As a result, there have been numerous protests by trade unions. On the other hand, the fears of the international community that Montenegro is economically unsustainable are unfounded and derive from experience in Bosnia, which cannot be taken as a model. Montenegro was able to function independently five years ago, but has faced sanctions and many other types of problems. It is imperative now that resources be fully utilised, that the large “grey” economy be integrated into the formal economy, not least to enlarge the tax base, and that a micro-credit scheme be set up to help start businesses. A micro-credit scheme could potentially open up 10,000 new jobs, generating in turn DM 35-40 million, which could make up for the shortfall in public finance and foreign assistance.

Juliette Dierick of MONET said public finance in Montenegro was neither transparent nor properly centralised. Parliament does not yet have full control over public spending, and the budget presented to Parliament is non-binding. A Budget Law is now in preparation, which is an important step in clarifying the situation. In 2000 the Montenegrin government agreed to large new expenditures, which were made possible because DM 150 million of foreign assistance largely financed the budget deficit. It is unlikely, however, that foreign assistance will continue to cover the DM 207 million needed every year for the government’s new welfare policy. Long-term structural consequences can be expected. The budget deficit is expected to grow to DM 200-280 million in 2001, which will necessitate reductions in current expenditure and far-reaching structural reforms. The trend in foreign assistance, meanwhile, appears to be steering away from financing the budget deficit in general and towards financing specific projects, e.g. pensions or electricity supply.

Mabel Wisse Smit of the Open Society Institute said that the significant financial assistance Montenegro has received over the last three years, and especially in 2000, was strategic in nature rather than focused purely on economic reform. Therefore economic reform has not been handled in Montenegro in the same way as in other transition countries. Now, after the removal of the security threat emanating from the Milošević regime in Belgrade, Montenegro is finally in the position to undertake economic reforms. But at this crucial moment, international financial assistance is being withdrawn, or held hostage to the postponement of the independence issue. Here, the international community is playing “a very dangerous game.” Without the resolution of Montenegro’s status, financial flows will continue to peter out, which would be disastrous for Montenegro. As things stand, the international financial institutions still cannot work directly with Podgorica, and the political debate around the statehood question is distracting from economic reforms. In this respect, it is important not to

delay the proposed referendum on independence, as the current state of flux is more damaging than a decisive vote, regardless of its outcome.

Andrew Levi of the Stability Pact stated that the EU has never ruled out this or that constitutional arrangement for Montenegro, although it does have a preferred solution, which is some form of federation with Serbia. The Stability Pact contains a clause that Montenegro may be assisted “under its democratic government as a constituent part of the Federal Republic of Yugoslavia”, which will have to be rewritten in the event of Montenegrin independence. In the mean time it is essential to keep aid flowing to Montenegro.

In the ensuing discussion period the following points were made:

- The EU was holding up not only aid but also urgent infrastructure investment in Montenegro, essential for tourism and for the construction of a key railway for the transport of aluminium.
- A referendum on independence could be a catalyst, a cathartic mechanism, to finally focus people’s minds on Montenegro’s future.
- *Vukotić* asserted that the resolution of Montenegro’s statehood is the pre-condition for economic reform.
- *Gavrilo Bobar*, a Bosnian Serb businessman, said that business would rather see Montenegro independent, despite emotional attachments to the concept of Yugoslavia.
- International assistance to Montenegro should not be linked to political issues but should be linked to structural reform.
- *Wisse Smit* stated that foreign aid will flow whatever the outcome of the referendum, but will continue slowing down until a referendum is held. Levi disagreed – the outcome of the referendum, and manner in which it is held, is important and will have implications for future aid flows.

Session III
The Long-Term Economic Prospects

Montenegro 2010

Daniel Gros^{*}

As the geopolitical environment of Montenegro becomes more stable and predictable, policy development can shift from short-term emergency measures to a long-term strategy. Looking at fundamental assets and constraints of the country helps to identify possible futures. Can Montenegro become a viable country that fully participates in the prosperity of Europe? How will the country present itself a decade from now? What can we learn from the experience of other small countries?

An independent Montenegro would be a small country. However with about 650,000 inhabitants, its population would be marginally larger than that of the smallest present EU member country, Luxembourg (450,000). It could also be comparable in size to two current candidate countries Malta (350,000) and Cyprus (750,000). In an enlarged EU, Montenegro would thus not be the smallest member. By comparison, Serbia, with its 10 million might appear to be a large country. However, within the EU, Serbia (or a Yugoslav Federation of Serbia and Montenegro) would only classify as a small country in the same league as Portugal, Belgium or Austria.

Moreover in economic terms Serbia constitutes not even a small, but rather a micro state. The GDP of Serbia is at present roughly equal to that of Luxembourg, which accounts for about 3 tenth of 1 per cent of the EU-15 GDP (and the exports of goods and services from Luxembourg are about five times those of Serbia). If Montenegro has to choose between remaining integrated in the Yugoslav economy or choosing integration with the EU there can be no doubt where its future lies.

At present Montenegro still trades heavily with Serbia and some ex-Yugoslav Republics. Experience in other countries has shown that radical opening lead to a rapid reorientation of trade flows. Slovenia is a case in point, but the Baltic Republics constitute even a better example. Before their independence, 90 per cent of their trade was with the rest of the Soviet Union. But this changed quickly, and the EU is now their most important trading partner. An independent and open Montenegro could expect to conduct most of its trade with the EU.

The relationship between Luxembourg (population similar to Montenegro) and Belgium (population 8 million, similar to Serbia) could be used to

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predict the future trading pattern of Montenegro. Luxembourg has been in a monetary union with Belgium for over 50 years and both economies have enjoyed the benefits of EU-wide integration over last decades. But Belgium (whose GDP is about 20 times larger than that of Serbia) still takes only about 12 % of Luxembourg's exports.

Measured in economic terms Montenegro itself would also be only a micro state. Its GDP is at present probably lower than that of Liechtenstein (which has only 30 thousand inhabitants). This country (the fourth smallest in Europe) has also chosen not to have its own currency, but uses the Swiss Franc instead. Liechtenstein's exports amount to about 2 billion euro annually, more than FYROM, B-H and Albania combined.

There is no presumption in economics that small States are not viable units. The general lesson from both theory and experience is rather that the welfare of a small country is determined essentially by its openness and the quality of its administration, with geography also playing an important part.

The experience of Switzerland (and Liechtenstein) is instructive in this regard. Until the middle of last century they were both extremely poor; and since they had neither coal nor iron, nor a strong agricultural base, it was generally assumed that they were condemned to remain underdeveloped. However they are now among the richest states of Europe. They were able to grow out of poverty because they made the most from their favourable geographical position in the heart of Europe by opening their economies and offering investors a stable political environment plus an efficient administration. Recent economic research confirms that this is not just an isolated experience but a general rule.

Part I of this note comments on the lessons one can glean from the recent economics literature on the three determinants of economic development mentioned above. On the assumption that the long-term goal of Montenegro is to accede to the EU by 2010, Part II briefly outlines discrete steps the government of Montenegro might take in the immediate future to give a "jump start" to the whole process.

Part I. An Assessment of Montenegro's Prospects for Economic Development

It might be useful to stress at the outset of this section that some factors will not be considered here. The bauxite mine, the hydroelectric potential and the existing industrial enterprises cannot secure the economic future of Montenegro. On the contrary, they might hinder it. Academic research has shown that countries with abundant natural resources grow in general more

slowly¹ and experience in other transition countries has shown that only the countries that do not cling to their old industries have a chance to recover. Heavy industries survive only very close to major markets. The future of Montenegro must thus lie in the services sector, which does not require any natural resources. A beautiful coast line for tourism helps, but this is in abundant supply.

1. The role of institutions

There is now a consensus among economists that the quality of institutions has a determining influence on economic prospects. Institutions refer here to the legal system and the administration that enforces it.

Quality is of course a difficult concept to measure, but there are now a number of indicators collected by respected international institutions (both official and NGOs) that allow for cross-country comparisons. These indicators have been used widely in the economic literature, which has found that they help to explain development and growth in GDP per capita. Growth will thus come only if Montenegro increases the quality of its institutions.²

There are two issues here: what is the starting point for Montenegro and what can one say about the likely long-term evolution?

The starting point of Montenegro is difficult to establish. The comparative indicators of institutional quality that exist have typically not been collected for the FRY. Hence one has to look at the neighbouring former ex-Yugoslav republics to have some rough estimate. A good first guess would be to assume that the quality of the administration in Montenegro is somewhere between that of FYROM, BH and Croatia. If Montenegro were close to the latter its starting point could actually be somewhat better than that of present candidate countries for membership. However, Croatia is also an example of how a relatively good starting position can deteriorate over time. The ranking of Croatia on the EBRD indicators fell over the last years. It remains to be seen whether the new government can use its relatively strong base in terms of an administration that works to make up for the time lost by the previous regime.

The big handicap of Montenegro is, however, that almost all of industry and a large part of the tourism sector are still in state hands. Privatisation must thus take place before Montenegro can claim to possess a functioning market economy. Other ex-Yugoslav republics (Slovenia, Croatia and Macedonia)

¹ See for example Sachs and Warner (1995) and for an application to transition countries Gylfason (2000).

² A high quality of institutions does not imply that there should be special regimes for foreigners. On the contrary, foreigners (foreign firms and individuals) should be treated in the same way as nationals.

started with an economy in which only about one third of all value-added was produced in the private sector. It took them several years to double that share. Montenegro starts later and will have to go faster if it is to catch up.

The outlook. Size is certainly no obstacle to the development of efficient institutions. The experience of small states (Estonia, Switzerland, Luxembourg) and micro states (Liechtenstein) proves this. The only question can thus be how one can accelerate improvements in the quality of institutions in Montenegro. The key here must lie in complete openness and the massive presence of foreign experts who can monitor progress and intervene when special interest groups block reforms.

Some authors (see e.g. Sachs, 1997) find that poor countries might end up in a self-made poverty trap in which an inefficient political system does not dare to reform the economy because this is feared to lead to unacceptable social consequence. As bad policies are not reformed the country does not grow and might even get poorer. Over time it will than remain very difficult to implement reforms so that this situation might persist. A mechanism like this seems to be at work currently in Montenegro. The government agreed to increase minimal wages by over 30 per cent this year under pressure of trade unions which argued, that this is required on social grounds. However the wage increase have led to a fiscal deficit which makes further reforms very difficult and thus threaten the future development of the country. The Croatian Parliament is at present debating a proposal by the government to cut public sector salaries by 10 % in order to bring the budget under control. Bulgaria had to take a similar step some time ago.

The next year will thus be decisive for the future of Montenegro. At present there is a clear danger of such a poverty trap emerging. However, the pressure from international financial institutions and the EU, whose support is crucial in the short term, is likely to prevent serious policy errors. The only conclusion one can draw at this point is thus that the next few years will be crucial as they will show whether the leaders in Montenegro will find the courage (and wisdom) to go beyond what is required by the international financial Community and adopt the necessary deep reforms. Ten years of experience with transition have shown that it also useless to discuss the relative merits of slow versus 'big bang' reforms. The verdict of experience is clear: slow reformers usually stay behind forever. (See Annex II for a brief summary of the evidence.)

2. Openness

Openness is of course essential to any small country. Openness is partially a natural consequence of being small, but it can be greatly fostered, or hindered, by policy. Openness is usually measured by relating exports to GDP. On this account one can expect that Montenegro should be very open,

provided it pursues the appropriate policies. For Luxembourg exports amount to about 130% of GDP. Estonia and Macedonia, although more than twice as large in population terms, also have exports to GDP ratios of close to 100%.

Openness can be fostered by the right policy choices in two key areas: money and trade policy. In both areas, Montenegro seems to have opted for maximum integration.

Money: With the adoption of the euro/DM, trade and investment flows will be greatly facilitated, provided, of course, the reform of the banking system is completed. Creating a separate 'national' currency would not make sense anyway for an economic area of the size of Liechtenstein (and a financial system, which even smaller). The choice of the euro/DM will thus bring advantages not only because it provides the country with a stable currency, but also because it will intensify the integration of Montenegro into euroland's economic space. It has been estimated that for the EU the introduction of the euro should lead to direct transactions cost savings of about 1 % of GDP although intra-EU trade accounts for 'only' about 15 % of EUGDP. As one should expect for Montenegro an openness ratio of about 100 % the gains for Montenegro in terms of pure transactions cost should be correspondingly higher, over 6% of GDP. The long term gains are likely to be higher still as this crude comparison suggests because tourism plays such an important role for Montenegro and the per unit transactions costs for cash are known to be higher than for trade among enterprises.

Recent research (see Frankel and Ros (2000)) suggests that every one percent increase in trade (relative to GDP) raises income per capita by roughly 1/3 of a percent over twenty years. Increasing the trade to GDP ratio by 30-60 percentage points could thus increase income per capita by 10-20 %. This might be a modest gain, but it would come in addition to other factors, such as overall productivity and would considerably speed up the catching up process which Montenegro must engage soon if it is not to miss the (moving) bus called EU.

Another advantage of adopting the euro is that Montenegro in this way no longer faces the typical current account constraint that arises in fast growing countries which import a lot of capital because Montenegro will be considered just like any small region of Euroland whose current account is not relevant (and usually not even known).

Trade policy. In trade policy Montenegro has already taken the first steps in the right direction with a very liberal trade law which foresees low and relatively uniform tariff rates. The next challenge is to implement this law in reality. This requires strengthening the customs service. Strengthening means in this case not giving customs officers more power, but to provide them with the appropriate training and introducing procedures that are

straightforward and transparent, thus minimising the potential for abuse and corruption. This will be essential if Montenegro is become an centre for entrepot trade (centred presumably on the Port of Bar).

All customs procedures must of course from the start be designed to be EU-compatible. This will facilitate the next step, which will be to negotiate a customs union, or at least free trade agreement with the EU as quickly as possible.³ The EU hesitates in many cases to take this step because special interest groups want to defend the domestic market and because it can often be argued that the partner countries are not really able to implement such far reaching agreements because their administrations cannot cope with all the implications that would flow from a free trade agreement or a customs union. In the case of Montenegro the first issue should not arise because imports from Montenegro cannot possibly threaten even the smallest EU sub-market. The second obstacle can be overcome by Montenegro itself by strengthening its administrative capacity.

3. The role of geography

Even the best policies cannot produce high growth in a small country that is isolated from the major world markets (e.g. Kyrgyzstan). Gallup, John Luke, Jeffrey Sachs, Andrew Mellinger (1999) find that distance from markets has a decisive influence on economic development as measured by GDP per capita. Montenegro is situated rather close to the EU market, closer than some EU members such as Greece, Portugal or Finland. Distance from markets is thus not a negative factor for Montenegro, and in this respect a Federation consisting of Serbia and Montenegro would not be better placed, although capital city of Serbia is marginally closer to the EU market than Podgorica.

The paper mentioned above also finds that access to maritime transport is very important. His estimates would suggest that in the long run Montenegro should actually be 50% richer than Serbia because most of the Montenegro population lives close to the coast and a harbour. Access to the sea would more than offset the marginally better position of Belgrade in road transport.

These estimates of the importance of access to the sea are based on the proportion of the population that live within 100 km (or one hour driving distance) from the coast. This has two implications:

1. Serbia would not lose from no longer having a harbour on its national territory because all of its population lives too far from the Mediterranean to

³ It should go without saying that Montenegro will also have to apply for WTO membership. Experience has shown that membership takes years to achieve, even if Montenegro satisfies the requirements quickly because there is a long queue of applicants. However, this should not delay negotiations with the EU.

benefit from access to the sea. For Serbia the quality of the rail/road connections to Bar (and Thessaloniki) should thus be more important than whether or not Montenegro is part of the same state or federation.

2. Montenegro would benefit from its access to maritime transport much more if travel time to the centre of the country (where most of the population lives) were cut half an hour by the Sozina tunnel project, which would effectively transform Podgorica into a harbour city.

4. Summing up

There can be no doubt that an independent Montenegro would be economically viable. But would it just survive, or could it prosper? This brief review of the economic literature suggests that this should be possible. Geography provides Montenegro with a good position relative to the EU market, via the sea and land. It is up to economic policy to realise this potential by integrating Montenegro in the European economic space. The EU has always opened its market to countries with stable market economies. It is up to the Montenegrin authorities to ensure that they qualify for this treatment. The policies adopted so far for money and trade are encouraging and should lead to first results soon. The long term economic future of Montenegro will be determined by the persistence with which these policy choices are pursued and implemented.

Part II. A Core Programme to be Implemented before mid-2002

All institutions in Montenegro must be reformed before the country can be taken seriously as a candidate for EU membership, but it is not possible to do everything at once. The authorities of Montenegro must set priorities. The following is a core programme of three concrete measures that could be adopted and implemented quickly.

1. *Completion of the privatisation of the four largest enterprises.* Privatisation will be a success if it is managed in a transparent manner and results in clear governance, i.e. a (probably foreign) strategic investor will a majority share, which can be effectively used to enforce restructuring.

2. *Procedural reform of the state budget.* The experience of this year has shown that serious budget planning is useless when parts of the government negotiate with public sector trade unions generous wage agreements that lead to much higher expenditure on wages. In order to impose hard budget constraints on the entire government the procedure for decision making must be changes: Decisions leading to higher expenditure must be possible only when they are linked to decisions that raise revenues by a corresponding amount.

3. *Reform of the judiciary/administration.* Given the small size of the country it is difficult to avoid a politicised judiciary system. The general perception in Montenegro is that the judiciary does not operate well. Outright corruption is not the problem, but judges have difficulties to be perceived to be impartial because they are 'part of the system'. The system of appointing and assigning judges needs to be made more transparent by involving non-M. in the highest instances. Liechtenstein has adopted such a policy with success. The highest judge in this country is usually from one of the two 'big' neighbours (Austria or Switzerland).

The first part of this core programme requires no legislative action and the administrative preparations (tender documents, nomination of a commission involving outsiders, etc.) are already well advanced.

The second part of the core programme requires an addition to a law on the budget that is already in an advanced stage of preparation and should soon be submitted to Parliament. In order to ensure that this provision cannot be easily over-ridden by Parliament it would be necessary to enshrine such a provision in the new constitution that will have to be adopted once independence has been chosen.

The third part of the core programme requires no legislative action since there appears to be no formal regulation stipulating the citizenship of judges. The formal structure is quite simple: Montenegro's *Justice Council* appoints all judges (for life) and the presidents of courts (for four years). This Justice Council consists of the Minister of Justice, two members of parliament, two law professors and two judges. Formally it proposes new appointments to the parliament which then ratifies them. It is considered that the Minister of Justice has decisive influence. Judges are appointed for life. But the presidents of the courts (appointed only for four years) have a very important role as they decide the assignment of judges and on disciplinary proceedings (against any of the judges). The next vacancy (or vacancies) at the Justice Council should be filled with foreigners, or at least individuals that have not grown up within the Montenegrin political system. The best choice would be lawyers and judges from neighbouring countries (so that they can understand the language and the legal tradition) who are known for their independence. Their brief would be to bring a neutral point of view into the management of the judicial system.

Table 1. Quality of Institutions as Measured by the EBRD

	Private sector share of GDP, mid-2000 (in %)	Average EBRD Transition Indicator, 2000
Hungary	80	3,9
Czech Republic	75	3,7
Estonia	80	3,7
Slovak Republic	55	3,7
Poland	75	3,6
Slovenia	70	3,6
Lithuania	60	3,4
Croatia	70	3,3
Bulgaria	70	3,3
Latvia	65	3,3
FYR Macedonia	55	3,2
Romania	60	3,1
Albania	75	2,8

Note: This scale is based on a maximum grade of 4, which is supposed to represent a functioning market economy. The average rating of 3.9 for Hungary implies that this goal has almost been reached.

Source: EBRD (2000).

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Annex I. The Belgium-Luxembourg Example

The experience of the relation between Belgium and Luxembourg is instructive for Montenegro because Luxembourg has about the same population as Montenegro and the relationship in terms of population is the same as Montenegro compared to Serbia. Moreover, Luxembourg was traditionally much poorer than its northern neighbour.

Two features stand out in the monetary history of Luxembourg:

1. Apart from a brief period following the first World War the country never had an independent currency.
2. Tensions about the monetary link to Belgium arose only when the Belgium currency became unstable.

The end of the First World War saw also the dissolution of the economic and monetary union of Luxembourg with the German empire. Given the small size of the country it felt the need to join larger area. For political and historical reasons Belgium became the partner of choice. Luxembourg therefore entered an economic and monetary union with that country through a Treaty concluded in 1921.

The first step consisted of the creation of a (one sided) customs union, i.e. Luxembourg adopted the Belgian tariff system. The economy of Luxembourg faced major adjustment difficulties after it left the relatively protectionist customs union with Germany and had to accept the free trade regime of Belgium. However, it is now generally agreed that this opening laid the foundation for prosperity Luxembourg enjoys today.

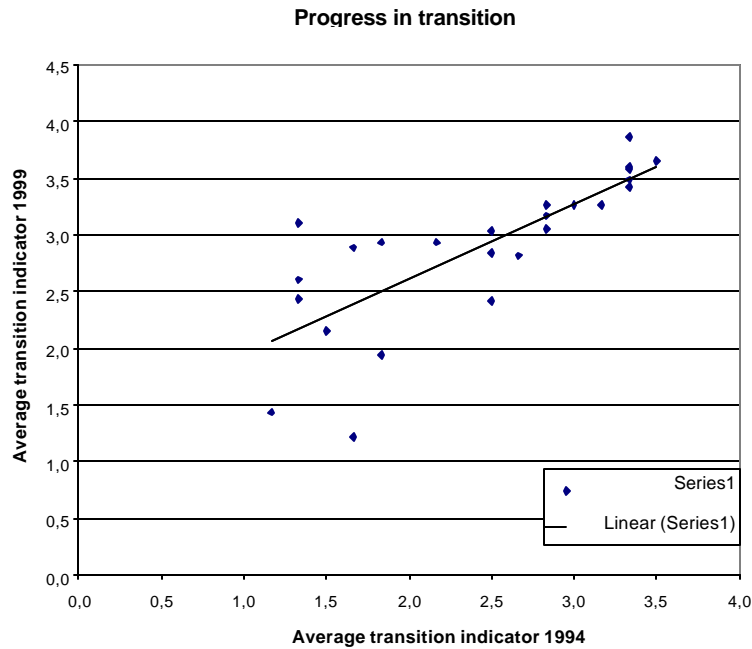
On the monetary side the nothing much changed with the conclusion of the Treaty in 1921 because the population of Luxembourg had already de facto adopted the Belgian franc for store of value purposes⁴ and only small notes and coins denominated in Luxembourg francs had remained in circulation (similar to Montenegro and Serbia until recently). The Luxembourg government took out a loan on the Belgian capital market to acquire the notes and coins to substitute local notes and coins with Belgian money (however, a small rest of Luxembourg notes and coins remained in circulation). The interest payments on this loan (rate 6%) were shared, 4% were paid by the Belgian and 2% by the L. government. There was thus some sharing of seigniorage. The initial agreement was revised several times and after 1944 the seigniorage was fully shared as Belgium took over 100% of the debt service of the (then much larger) sum necessary to re-monetise the L. economy after the devastation resulting from the war.

⁴ Germany was at the time in a period of hyperinflation.

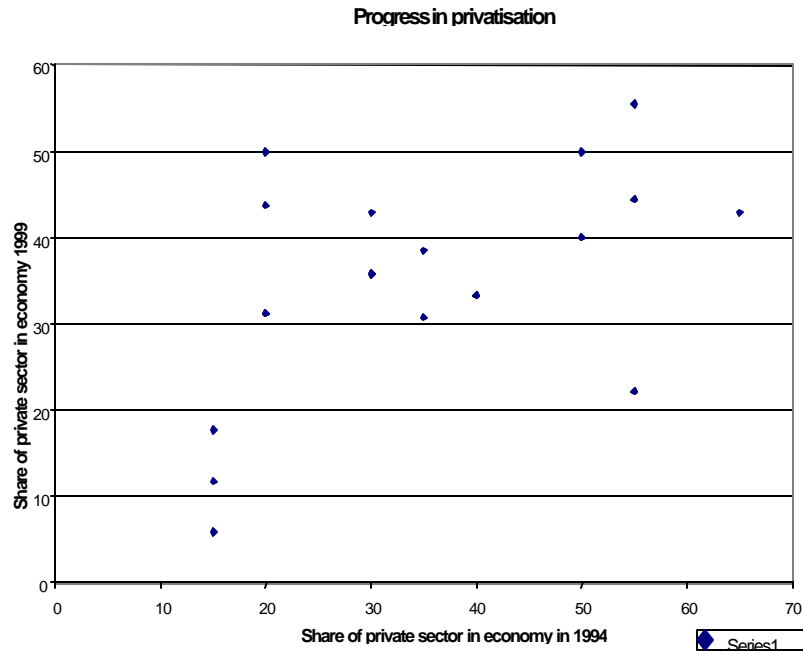
Luxembourg, did not establish any monetary institution until 1983. The main functions of the Institut Monetaire Luxembourgeois that was then set up were banking supervision and some IMF related business. With the advent of EMU, this institution was upgraded and re-named Luxembourg Central Bank, whose governor sits on the Governing Council of the ECB.

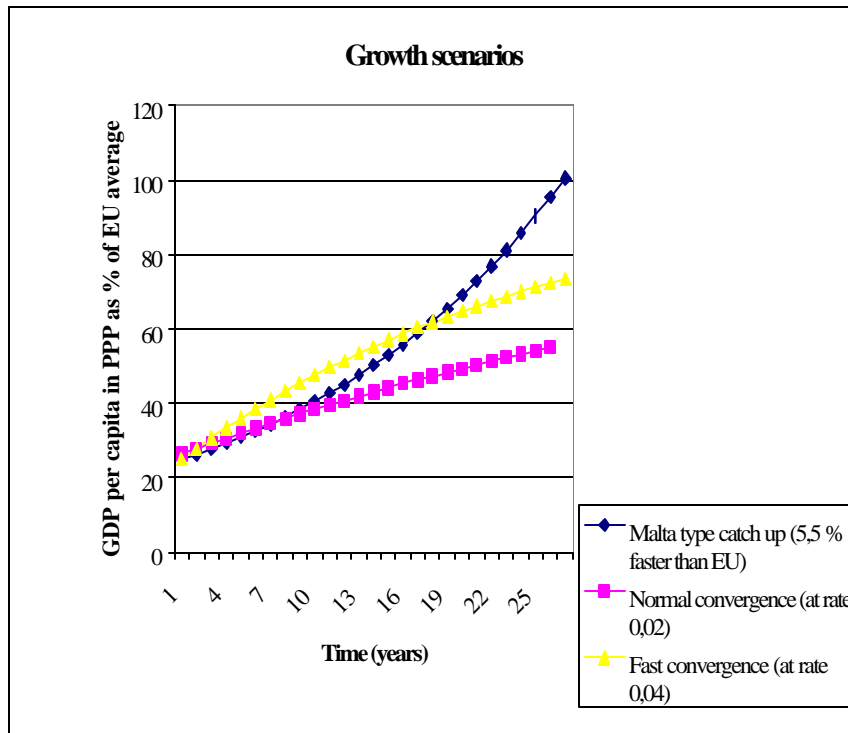
Annex II. Big bang versus Gradualism

The academic discussion on this issue now seems definitely, well, academic. Experience has shown that slow reformers were just that, slow reformers. The tortoises did not overtake the hares. Countries that implemented reforms early usually stayed ahead of the others. The figure below shows this by plotting simply the overall EBRD reform indicator (the average of all the indicators available) for 1994 (the first year this indicator was published) against the value of the same indicator in 1999. It is apparent that countries with high indicators in the first period also had higher values five years later.



The next figure makes the same point with respect to privatisation, but in a somewhat different way. In this figure we put the private sector share of the economy in 1994 on the horizontal axis and on the vertical axis we put the relative progress achieved between 1999 and 1994. Relative progress is defined as the increase in the share of the private sector during these five years, relative to the share of the economy that was still in state hands and thus was still to be privatised (relative progress in privatisation = $(S_{99} - S_{94}) / (100 - S_{94})$, where S denotes the share of the private sector in the economy). This figure suggests that countries that started to late to privatise also did not make up the lost ground later. Slow privatisation meant in reality no privatisation. By contrast countries which privatised early continued to privatise the remaining parts of their economy at a faster pace.





Annex III. How fast could Montenegro grow?

This annex provides just some simple model calculations based on economic research about the 'normal' rate of catch up of poorer countries. Moreover, it also shows what would happen if Montenegro were able to copy the experience of another country that shares a surprising number of features: Malta: it has as similar size in terms of population (350,000) and it also depends mainly on tourism and one port.

There is a large literature on convergence among poor and rich countries. It has generally been found that the rate of convergence is around 2-3% p.a., implying that the difference in the level of GDP per capita is reduced each year by around 2-3% through higher growth in poorer countries. Similar rates of convergence have also been found within the EU and even within larger economically differentiated countries. The attached chart thus shows what would happen under two assumptions about the rate of convergence: a 'normal' speed is assumed to imply a convergence rate of 0.02, faster convergence is assumed to imply a rate of 0.04.

The example of Malta: Malta had in 1975 a GDP per capita (measured at PPP) of only about one fourth of the EU level. Today it stands above the EU (at 110 % of the EU15 average). This was achieved through a very high growth rate, which as on average 5.5 % above that of the EU. The third line in the attached chart simply shows what would happen if Montenegro were to be able to follow this example. Cyprus (population 750 thousand) would be another example of a relatively successful process. The Greek part of the divided island has now a GDP per capita (always measured at PPP) of around 75 % of the EU average, somewhat below the level of Spain.

Panel Discussion of Session III

Daniel Gros (Director of CEPS) tabled a paper on Montenegro's longer-term economic prospects and introduced the discussion. There was no logical reason why a small, open, economically integrated state could not prosper. Both Malta and Luxembourg are smaller than Montenegro but with GDPs considerably higher than the EU average.

The essential issue is how such a small state would create the conditions for prosperity, conditions like currency stability and investor confidence. An independent Montenegro would need to focus its attention on growth markets. Serbia, in economic terms, was already a microstate, with a level of imports lower than Luxembourg's. After independence, Montenegrin trade with Serbia would – logically and quickly – decline. The point is illustrated by the examples of Estonian trade ties to Russia, as well as Luxembourg's own links to Belgium (with only 12% of Luxembourg trade directed to the Belgian market).

Any small country, in order to be economically viable, must: 1) be open to imports by having a low tariff rate – small countries can afford to be liberal in their trade regimes because they have very little industry to protect – and, 2) have an advantageous geographic position – countries that are geographically situated near a large market (like the EU) and have access to the sea have a better chance of economic survival.

Montenegro enjoys other economic advantages, specifically its maritime access, the relative lack of inefficient local industries claiming protection from imports, and the fact that a move to a hard currency had already been taken. There is cause for concern about recent public sector wage increases, and need to avoid reliance on deficit financing.

Vladimir Gligorov (WIIW, Vienna/OECD, Paris) emphasised that the introduction of effective economic policies pre-supposed wider social and economic changes. In the case of Montenegro, a serious social revolution would be implied. Montenegro would have to learn how to compete in quite different, large markets. The tax system would have to be re-structured, and company taxes lowered. These shifts in policy and thinking could not be accomplished without costs. Reforms are, without question, necessary and painful for the population of Montenegro. The right combination of reforms, however, could ease these growing pains. The cultural differences within Montenegro are not insignificant. Fiscal and social sustainability is critical in the interim period. Social support mechanisms need to be examined. An example is Montenegro's internal diversity – the disparity between coastal and mountain regions. These characteristics would need to be taken into consideration.

Petar Ivanović (Executive Director of the ISSP, Podgorica) also highlighted the need for Montenegro to develop new economic systems, institutions and ways of thinking. The Serbian and Montenegrin economic systems can no longer be regarded as complementary. Montenegro needs to weigh up the costs of economic adjustment, as compared with the costs of trying to retain the status quo. Montenegro has numerous economic bases on which to depend on: tourism prospects, a base in the services sector, infrastructure adopted to maritime access as well as to Montenegro's links with its seven neighbours, a young workforce, a population that has widespread competence in the English language and a promising agricultural sector.

Vujica Lazović (Podgorica) discussed the importance of Montenegro seeking new markets beyond Serbia. The proximity of the Serbian market does not, in itself, offer Montenegro sufficient inducement to remain in the FRY. Whether independent or not, Montenegro had to confront the same structural issue about the size and competitiveness of its companies. Montenegro could learn from the adaptability of other economies to structural change; Korea was cited as an example. If Montenegro was independent, then the key issues of economic policy might be tackled in an easier, faster way, since the Montenegrin government would be able to assume full and direct responsibility for setting policy directions.

During the question period, the following points were made:

- Montenegro must introduce an extremely prudent fiscal policy. Currently Montenegro has a large fiscal debt of somewhere near 15 percent of GDP. These circumstances are not beneficial with the introduction of the DM, a very controlled currency.
- The EU will be less sympathetic about financing a large deficit in Montenegro.
- Inflation in Montenegro is becoming a concern for everyone.
- There must be a concentration in increasing the "top-up" skills training
- The amount of financial aid is so far up in the air if Montenegro decides to establish independence. What will the reaction of the EU and other countries be? Will it have a negative or positive effect on the economy of Montenegro?

Session IV

Relations with Neighbours and the EU

**Future Relations of Montenegro with Its Neighbours
and the European Union**

Branko Lukovac *

Good and stable relations with its neighbours, as well as with the European Union, are preconditions for Montenegro and a necessary dimension of its overall development. They are of the highest importance and top priority for us. We have many reasons for this, and on this occasion, I will mention only three: i) Because we are open and multi-ethnic society, which, throughout the history, in constant communication with its Mediterranean and Balkans surroundings, confirmed and strengthened inter-ethnic and inter-religious tolerance, ii) Because, in our internal structure, we have demographic, cultural, economic, geographic, traffic and many other connections with our neighbours, iii) Because, long time ago, we have determined that our perspective is in Euro-Atlantic integration processes and organisations, and, with that aim, we have been for years conducting necessary adjustments.

Under hard circumstances of policy of anachronism and an authoritarian regime in Belgrade, we have managed to establish, maintain and strengthen our relations with neighbours and the European Union, and have been accepted into certain regional and wider initiatives and processes as precious democratic expression, partner and fulcrum. Contrary to expectations, representatives of new authorities in Belgrade, using present federal provisory and international ambient, have led systematic campaign in order to undermine or at least weaken such active international engagement and reputation of Montenegro. Their aim is to push Montenegro out of international programs, processes and institutions (Adriatic, Balkans, Central-European, Stability Pact and European Union), and win them over in favour of their position, in which they would obtain support for federal framework, and, in regard to determinations of Montenegro, warn of dangers it would produce on regional stability, domino effect, unilateral steps etc.

Nevertheless, their attempts to project a bad picture of Montenegro, to force us in their frame or filter in order to gain their own affirmation and trust and legitimacy of Montenegro, will be in vain. With this act, they may forever lose a chance, in our mutual relations and before Europe and the world, to

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create and promote new trust, to gain respect and credibility, by efforts to accelerate and improve the process of connecting Montenegro with the rest of the world and integration of Montenegro into all regional processes and institutions. This kind of treatment of Montenegro and its interests should send the best message to our citizens not to expect any benefit from their side.

Therefore, there is no real base to feed the illusions and hope that, in present circumstances and kind of federal frames, the interests of Montenegro to maintain and improve cooperation with the world could be realised successfully. Present, most inappropriate federal frame and negative position of Belgrade authorities derived from it, not only inhibits, but also seriously limits realisation of good cooperation between Montenegro, its neighbours, European Union and international community as a whole. It is time that international policy-makers realise that federal frame, created by policy and regime responsible for greatest crimes in the area since the Second World War, carries within all characteristics of that very policy. They should also realise that common interest of our nations and the international community should be eradication of that policy, together with all institutions and mechanisms created for its own purposes.

It is obvious that only as sovereign state and full-fledged member of the international community, Montenegro could successfully continue to conduct its program of democratic domestic reforms and, in accordance with its interests, build good-neighbourly relations, and integrate into regional and European processes and structures. Our visions and plans towards neighbouring countries are therefore based upon assumption that Montenegro can enter them as equal member of the international community.

Now that peaceful and democratic conditions are attained, democratic Montenegro is determined to do what all republics, former members of SFRY, did – to enter new relations in the area of ex Yugoslavia as a free, sovereign and equal members, without any territorial or other pretensions towards each other and free of danger that they could become victims of some old and recreated political forces and aspirations. This process has already begun and therefore Montenegro has no reason or time to further postpone and wait to achieve the same quality all other states in the area achieved.

In that era of new relations in Balkans and Mediterranean, Montenegro will bring values that qualify it as a good neighbour and important factor of peace, stability and cooperation. Montenegro has no territorial pretensions towards any of its neighbours, and it is not under the threat by any of them. There are no internal national, ethnic or religious conflicts or serious problems that Montenegro could not resolve on its own. Further more, in its inter-ethnic and inter-religious relations Montenegro has obtained

experiences that could contribute to seeking of greater harmony of relations in wider area. The characteristics of its cultural inheritance and creativity, its nature, geographic position, economic structure and development potentials and needs, as well as the human factor, demand its openness towards Mediterranean, Balkans and the entire world. That is why Montenegro intensified and hastened facilitation of movement of goods and people, visa abolishment, decreased customs demands and brought itself closer to all processes and institutions of regional cooperation.

All this, together with its democratic and pro-European policy, enabled Montenegro to significantly and rapidly improve relations and cooperation with all states, former members of SFRY, as well as with other neighbours. In spite of limited financial resources for funding of numerous projects relevant for building the trust and cooperation, and insufficient support of the European institutions for such programs, remarkable preliminary results have been achieved. Many countries attribute great understanding and support to policy of Montenegro, though, to some extent, they have been limited by regional movements and interests. Many programs in the area of infrastructure, economy, culture and information, as well as in facilitating the movement of goods, people and capitals, are being coordinated. Frameworks and basic principles of the Stability Pact of South Eastern Europe, as well as of some other regional programs, have given good stimulus to these relations.

As an equal member of the international community, Montenegro wants to be a good neighbour and useful regional factor for development of mutual trust and understanding, promoter of stable peace and security and initiator and participant of processes of cooperation, association and integration in regional and wider frames. With that aim, Montenegro is determined to initiate and contribute to the following forms and contents of regional cooperation:

1. To give priority to its own and international actions in combating corruption and organised transnational crime in all its forms, offering to establish appropriate mechanisms and undertake necessary actions in its own territory, with the assistance of EU, USA and specialised international organisations.
2. To conduct an action in its own frames, and to contribute to regional programs of decriminalisation of the societies which have become victims of years-long policy of war and destruction in the area of former SFRY, with numerous and powerful structures created as profiteers of war and isolations; to conduct investigations and judicial processes against all those who participated in crimes in the area of ex Yugoslavia, and extradite to the International Tribunal for War Crimes in the Hague all those who have been indicted.

3. To undertake, i.e. intensify, activities that would lead to respect of all principles and norms of the UN, the OSCE, the Council of Europe and the EU, concerning affirmation, protection and improvement of rights of all members of national and ethnic communities or minorities, as well as inter-ethnic and inter-religious tolerance.
4. To pass regulations and initiate programs which would expand regional cooperation and cooperation among the states of former Yugoslavia: of connecting huge traffic, energy and communication systems; of disarmament, de-mining, creating and expansion of weapons for mass destruction, agreements on reduction or abolishment of customs and other barriers for flow of goods and capital, as well as of exchange of information, scientific and cultural works and artists. To that aim, Montenegro, as sovereign state and rightful member of the international community, intends to continue applying present regime of visa-free entrance in Montenegro for all citizens from ex-SFRY countries and the region, mindful of all necessary measures of protection from organised crime, and expects the same from other countries of the region.
5. In this regard, in relations with Croatia, we intend to find out, as soon as possible and acting in good faith, a solution for only unresolved issue of Prevlaka, which has been left to us as a legacy of former regime in order to be permanent problem-maker. Acting in good faith, it is our common interest to make Prevlaka a bridge of cooperation between Montenegro and Croatia which will, in accordance with our agreement, be promoted by our two states for further tourist development of wider Dubrovnik-Konavle and Boka Kotorska area.
6. Montenegro expresses desire and intention to organise, on regular and traditional bases, Mediterranean cultural games, which will bring countries of the region closer together and facilitate understanding and cooperation, mutual influences and cross-cultural mix of nations and countries of Mediterranean area.

In past years, Montenegro has established significant cooperation with the European Union through different programs of reforms, humanitarian and macro-economic support and various forms of participation in processes initiated by the Stability Pact. Montenegro is interested to start working on preparation of Agreement on Process of Stabilisation and Association as soon as possible. Once its state and international legal status is resolved, all conditions for its participation in Process of Stabilisation and Association, as well as for realisation of already agreed program of bringing Montenegro closer to the European Union, will be fulfilled.

Europe, the US and the world have paid too high price of their naïve belief that Milošević was a trustworthy and mighty partner and guarantee of all agreements, including the one made in Dayton. If today they really want to

bring him before the Hague Tribunal for war crimes, then they should not so quickly and recklessly accept projects of those who have been his spiritual leaders or blind followers, as bases for new stability and solution of the remaining problems. It should not happen that people, who even today stick to nationalistic policy, as main driving force of war and crimes in former Yugoslavia, enjoy trust, even though they now have democratic cover. It would also not be right to forget those who, in long period and hard conditions, proved to be reliable defenders of freedom, rights, democracy, inter-ethnic and inter-religious tolerance and cooperation with the world.

If well-fabricated deceit that sovereign and internationally recognised Montenegro could endanger interests and the stability of Serbia and the region, would be accepted as truth in Europe and if it would influence its opposition to the will of majority in Montenegro, then Europe would become an accomplice in new injustice towards Montenegro. Even more, perhaps unconsciously and unwillingly, it would support the policy of destabilisation of Montenegro and spiral of bad and possibly dangerous relations between Montenegro and Serbia creating new, long-term hot spot in the entire region. Along with that, Europe would question the validity and credibility of its own principle and of those promoted during the efforts to solve crises in the area of former Yugoslavia through the work of the so-called Badinter Commission.

Panel Discussion of Session IV

Branko Lukovac, Minister for Foreign Affairs, Montenegro, began by stating that good neighbourliness was a precondition for on-going positive relations within the region. Montenegro's focus was in three critical areas:

- 1) Promoting an open multi-ethnic society;
- 2) Promoting economic connections within the region, between the neighbours; and
- 3) Engaging in the Atlantic integration processes and organisations.

Despite ten years of a repressive Belgrade regime, Montenegro has managed to carve out and maintain strong relations with its neighbours and the European Union. The current Belgrade regime appears not to be adverse to undermining Montenegro's international programs or outlooks in its attempts to promote its preferred resolution to the federal debate. Montenegro's vision and plan for the future were squarely based on the idea of the Republic as part of and equal member in the international community.

Montenegro's reform program would continue to contribute to the following forms of regional co-operation:

- 1) Establishing of appropriate mechanisms, policies and programs with the assistance of the international community to combat corruption and crime.
- 2) Breaking down the grey economy, war/conflict economy.
- 3) Launching – where appropriate – judicial processes for crimes committed in ex-Yugoslavia.
- 4) Respecting principles, norms and values vis-à-vis the protection of national and ethnic minorities and communities, and to promote inter-ethnic tolerance.
- 5) Supporting free movement through the continued application of no-visa requirements within the region.

Mr. Lukovac recognised the outstanding issue of the Prevlaka peninsula, but saw this as an easily resolvable issue between Croatia and Montenegro.

Stephan Lehne, Policy Unit, Council of the European Union, began by recognising the positive role played by Montenegro during the Milošević era, and anticipated the Republic's continued contribution and development of the region. The future of the federal state, Mr. Lehne maintained was one that concerned directly the peoples of Montenegro and Serbia.

The EU interest in these developments and the final outcome of them were twofold given that:

- 1) Both Montenegro and Serbia aspire to be members of the Union; and,

2) The EU has a strong stake in the Balkan region.

The point was reiterated – as outlined in the 22 January communiqué – that the European Union remained opposed to unilateral steps towards independence, that democratic principles must be observed in the upcoming April 2001 elections and that any outcome must have full democratic legitimacy.

The EU's main concerns in Montenegro concern stability. As regards internal Montenegrin stability, a significantly even split in public opinion in a yes / no vote for independence would not be a sound basis to establish a strong state. As regards the stability of the region, two scenarios could be foreseen:

1. Montenegro discounts the impact of its independence on events in the rest of the region – Kosovo, Republika Srpska, Macedonia and Serbia itself – and where this would implicitly accelerate the independence push in Kosovo.
2. Montenegro accepts the impact of its independence on regional stability but maintains that it cannot be held hostage to regional issues/concerns.

The EU focus was not on developing policy entity by entity but by developing policy for the region as a whole, and stated that two simultaneous processes were underway:

- 1) The breakdown of multi-ethnic societies; and
- 2) The growing perspective of EU integration

The question is whether the process of disintegration in Yugoslavia has to run its full course; states breaking up into ever smaller units. The concept of sovereignty itself – with the EU as an obvious model – had fundamentally altered. With this in mind, the CEPS paper, promoting resolution in the context of a European perspective, was innovative and balanced. The EU would support an arrangement that was agreed upon consensually and which minimised the risk to regional stability.

H.E. Ljubomir Èuèiæ, Ambassador of Croatia to Belgium, began by stating that for Croatia, all Balkan countries were equal partners in determining the future of their region. For example, without regional co-operation Croatia could not see itself finalising the EU Stabilisation and Association Agreement or looking beyond this to future membership of the EU. Above all Croatia promoted a peaceful resolution to the Federal question in the FRY, but it did not see itself as having any official involvement in this process. Montenegro / Croatia relations have vastly improved, and that the only question for Zagreb was to constantly evaluate which partner it was necessary to speak to – Serbia or Montenegro as events unfold.

Ivan Krastev, Center for Liberal Studies, Sofia, outlined two questions at the start of his presentation. What would be the reaction of the countries of the region? What would be their position vis-à-vis the likely outcome of the Federal question in the FRY? The other countries were likely to follow the EU line – which was not difficult to predict – and none would formally acknowledge Montenegro before the EU did, if it were to become independent. The international community were only dealing with one reality, one outcome. The problem was not that the international community has a preference – but rather that its preference was highly unrealistic. The focus needed to be on the process within the federation, rather than on the outcomes.

The legal precedent applied in the Badinter commission would confirm that Montenegro could seek independence. Indeed, if the rules were applied to the rest of the region, then it would be Serbia ironically who would not qualify, given that it is not in possession of full control of its own territory.

The stress should not be on the federation or independence question, but rather on the process, the preparation for either of the two outcomes. The options are either unilateral independence or negotiation – the preferred option is that which could limit the potential fallout. In terms of Kosovo, whilst recognising the regional dimension, only Kosovo-specific issues would finally determine the issues surrounding Kosovo.

Christopher Cviia, EBRD, began by stating that the will of the Montenegrin people would ultimately decide on the independence / federation question. There is little reason to take seriously the ‘doom and gloom’ scenario advanced by the International community and in particular the EU over their concerns over regional instability in the event of Montenegrin independence. The domino theory, which had been so discredited since the end of the Cold War, held no relevance whatsoever in the present day Balkans context. Given Montenegro’s good neighbourly relations, its track record over the last ten years, and its stance during the Kosovo war, there was every reason to expect that independence would not upset the regional balance. With exception of the former territory of the SFRY, the Balkans region had been a peaceful one, and that with the exception of the Presevo valley, regional elites no longer regard the use of force as a viable option in achieving political objectives. The preference should be to get the process of the break-up of the Federation over quickly, rather than to engage in a long drawn out process premised on the over-cautious perspectives advanced by Brussels. A settlement could only be brokered and concluded by Belgrade and Podgorica. The process could also have a positive liberating effect on Serbia itself, ridding itself of a very difficult relationship.

Mark Thompson, ICG, said that since 1991, the Balkan elites have been consistently interested in the crown jewels of independence – full

sovereignty and wide use of governmental prerogatives. With the exception of Slovenia these had been generally misused by the Balkans states. Perhaps the EU was more interested in the process as opposed to the crown jewels – the substance or the outcome. The present Yugoslavia federal question holds the only real prospect of a negotiated settlement throughout the ten-year saga of the break-up of the SFRY. However, with the 22 January Council communiqué the EU is now institutionally incapable of revising their outlined position. Regarding the impact on Kosovo, three points can be made. If the process was a clean and easy exercise, it could act as a good regional precedent for Priština and Belgrade. Negotiations between Podgorica and Belgrade would in no way forestall the outcome of Priština – Belgrade discussions. If Montenegrin independence provoked political violence and extremism in Kosovo, then the place to tackle that would be in Kosovo itself, dealing with the most contentious hot-spot – Mitrovica.

Tim Judah, journalist and writer, argued that there was lots of preparation for events that were not going to happen. Belgrade's position towards Montenegro he argued was schizophrenic: on the one hand there were strong emotional bonds, on the other hand an acceptance of the inevitable and a preference to get things over quickly. Mr. Judah concluded by stating that the problem in all of these discussions was not so much Montenegro, but rather Kosovo – how to manage the issue of Kosovo and Kosovo independence.

Question and Answer Period

- A decision of this importance needs to have a strong basis in the population. It is theoretically possible for independence to be decided by 25 percent of the electorate, plus one voter, if only 50 percent of the population turns out to vote.
- Why should the majority for independence from the referendum in Montenegro be required to be higher than that of former Soviet states or former Yugoslav states in the past referendums?
- The international community, running Kosovo for over a year and a half, has not established a normative, balanced approach towards European perspectives as the EU proposes for Montenegro. Therefore, why force Montenegro into being a hostage of the international community's misperception of the whole situation? Why force Montenegro into a shotgun marriage with a bag over the bride's head?
- What role could international mediation play? One side wants independence while the other side does not, what could a mediator do? The only service a mediator could provide between Belgrade and Podgorica is to settle the economic, security and political links between the two places whether they are independent or a federation.

- The feeling towards the EU's position in Montenegro is mixed. Many are happy with the EU's position on the process, but unhappy with the EU position on the outcome of the independence question. This differentiation is quite artificial because if you want genuine negotiations there has to be willingness to compromise. Both sides must be open and agree that the outcome is not preordained. What we need is a genuine, original solution that satisfies this very complicated situation. There have been promises of negotiations from both sides but to date the actual negotiations are lacking, especially this far into the situation. This is the central point the EU made. The perception that the EU should have a position on the process but not on the outcome is a very unfounded perception.
- What makes everyone so sure that outcome is going to be so perfect and that the EU perceptions of the outcome of the Montenegro question are unsupported?
- Why is the EU preparing for the less likely outcome and ignoring the more likely outcome? Why the posture of the ostrich?
- The attitude of the international community towards Montenegro is partial and violates the freedom of the citizens of Montenegro to decide independently their future. The international community also supports those forces in Montenegro that opposes European standards and values. Victory by these forces will be a direct threat to Montenegro and the entire region.
- European support is directed at forces that until recently supported dictatorship. The increasing support of such groups will increase ethnic tensions and will destabilise democracy in Montenegro.
- Yugoslavia can no longer exist so there is no need to have the discussion of today concerning how to preserve the union between Montenegro and Serbia.
- The referendum question is a question of politics, not legal issues. The reservations of the EU are that it is possible for the independence of Montenegro to be decided upon a very small majority or even a minority.

Closing Remarks

Branko Lukovac, Minister of Foreign Affairs, said that because of this conference he is ever more aware of the need for the transparent and democratic proceedings in the upcoming months over Montenegro's question of independence to be evident. Because of your interest and desire to assist the regions of the former Yugoslavia the future has already begun to brighten. Thank you everyone for helping us with your views and for your advice.

Stefanie Ricken from the Friedrich Ebert Stiftung closed by saying that one thing had been perfectly clear, that there is a very strong wish for Montenegrin independence, at least among the people in attendance. There has been numerous historical, political, legal and economic arguments presented in favour of independence today. The most important factor gained from this conference, however, is the sense of an urgent need to conduct a referendum and clarify the question of statehood. A referendum in the near future would help to develop solutions for other problems concerning economic and social development. Another important point is the procedure of the referendum and what amount of the vote and participation is needed to conduct a fair referendum.

Another interesting point that has surfaced is the need for Serbia to begin the internal debate about their future relations with Montenegro. Perhaps the Serbs should begin with practical issues such as citizenship and customs and not so much with the more difficult issues of a continued federation or confederation.

Finally, the process of the Union is integration so "how much does the region (the Balkans) have to disintegrate before they are ready for integration again?" This is an important question because the notion of national sovereignty has changed a lot in the process of integration. What does Montenegrin independence mean in the further integration of Europe?

FES will continue to debate this issue and work for a positive solution to the question of Montenegrin independence.

Daniel Gros from the Centre for European Policy Studies (CEPS) expressed his opinion as an economist that the size of a country is not an impediment to prosperity as long as the economy remains open. So, the question of independence, in terms of economic considerations, is where will Montenegro have a better-managed economy: as an independent country or in some sort of federation/confederation.

What is missing in the debate about Montenegro is the awareness of acute fiscal problems that exist outside of independence. The right policies can lead to huge payoffs but they require tough policy choices from the very beginning. The enormity of the choice that has to be made is missing in Montenegro. A future that could be very prosperous for Montenegro requires a present disposition to taking greater steps that are very difficult. This fundamental choice is being somewhat drowned by the question of independence and is something that the government of Montenegro must address.

Gareth Evans from the International Crisis Group (ICG) said that his personal position had started out with deep anxiety about Montenegrin independence in reference to avoiding spillover conflicts at all costs and the virtue of “hanging in there” on some sort of common sovereignty notion. As the day progressed, the idea of a very thin federal model presented itself, perhaps the thinnest federation ever invented in the sense of two autonomous entities having no common institutions except for perhaps a common notional sovereignty. This does not seem to be terribly realistic either as reality intrudes.

As the debate closed, it has become clear that the independence option is in fact inevitable and the international community, starting with the EU, should begin to accept this idea. The international community should begin to:

1. Ensure that as the courses of events unfold, both sides are prepared for independence: Montenegro in an economic sense – the responsibility of an independent economy – and Serbia in a political and cultural sense – what Montenegrin independence means to Serbia.
2. Focus on identifying the principles that are applicable to the latest stage of disintegration of Yugoslavia, what aspects make the exercise tolerable in the case of Montenegro. Then apply these principles to the Republika Srpska and other areas of conflict so that the slippery slope argument is extinguished.
3. Finally, let both sides conduct themselves in a way that doesn’t make more difficult the achievement of this wider pattern of regional cooperation and a other functional issues that will be crucial in the area.

If we concentrate on damage control and maximising the positive aspects of this process perhaps we can learn from it and avoid mistakes that have been made in the past.

Michael Emerson concluded with a view more favourable to a continuing union with Serbia. There are many ingenious constitutional arrangements in the world which have been devised to conciliate conflictual situations. There can be common citizenship with separate national identities. There could be in this case divergences in economic and monetary policies for the time

being, to be harmonised and re-united later through common EU policies. There could be a light institutional structure. Indeed the idea of the lightest federation ever should not be dismissed so easily. In any case decisions over secession and independence should not be taken on the basis of small majorities.

The EU does not want more micro-states in the accession pipeline. As was seen at Nice, the prospect of an EU of 30 to 40 member states poses formidable problems for the next few decades, until and unless the EU matures into a more federal structure itself. In the meantime Montenegro could have better prospects for EU accession in union with Serbia. This argument is entirely different to the worry about domino effects, causing further Balkanisation of the region.

Currently the huge budget deficit is also a serious concern. If Montenegro goes ahead with independence it may wake up with a big hangover. It would have to overcome this deficit on its own – such seems to be the warning of the EU and international community.

There are constitutional options open for dialogue and search for a consensual outcome. The EU should itself be more forthcoming with ideas, both constitutional and financial, if the people of Montenegro are to be persuaded that there would be real advantages in remaining in union with Serbia.

Annex I
Programme of the Expert Meeting
26 February 2001

9.15 Opening Remarks by Michael Emerson, CEPS

9.30 Introductory Speech by President Djukanović

10.00 Q&A with President Djukanović
Chair: Michael Emerson, CEPS

10.45 Montenegro's Legal Status: Options for the Future
Chair: Gareth Evans, ICG

Paper: Prof. Mijat Šuković, Montenegrin Academy of Science

Discussants: Vladimir Goati, Belgrade
Srdjan Darmanović, CEDEM
Dragan Šoć, People's Party, Montenegro
Michael Emerson, CEPS
Daniel Serwer, US Institute for Peace
Gerald Knaus, European Stability Initiative
Zoran Kusovac, Jane's Defence Weekly

Debate

12.35 Balancing the Equation – Public Finance and Foreign Aid
Chair: Werner Rechmann, FES

Paper: Veselin Vukotić, Institute for Strategic Studies and Prognosis

Discussants: Dragan Djurić, Montenegrin Trade Unions
Juliette Dierick (MONET)
Mabel Wisse Smit (Open Society Institute, Brussels)
Andrew Levi, Stability Pact

Debate

15.00 The Long-Term Economic Prospects
Chair: Michael Emerson, CEPS

Paper: Daniel Gros, CEPS

Discussants: Petar Ivanović, Institute for Strategic Studies and Prognosis
Vladimir Gligorov, WIIW, Paris
Vujica Lazović, Podgorica

Debate

16.15 Montenegro's Future Relations with Its Neighbours
and the European Union

Chair: Daniel Gros

Paper: Branko Lukovac, Minister of Foreign Affairs of Montenegro

Discussants: Veronika Wand-Danielsen (Swedish Presidency)

Stefan Lehne (European Council, Policy Unit)

Ljubomir Ćucija, Ambassador of Croatia

Ivan Krastev, Center for Liberal Studies, Berlin

Christopher Cviija, EBRD, London

Mark Thompson, ICG

Tim Judah, journalist

Debate

17.30 Closing remarks

18.00 End of conference

Annex II
Differences between the FRY/Koštica and Montenegrin Perspectives

*Christopher Mulkins**

Overall Perspective

FRY/Koštica's Perspective	Montenegro's Perspective
<ul style="list-style-type: none"> • Believes in the preservation of the joint-state between Serbia and Montenegro. • Hopes to reorganise the FRY into a federal state, organised as a "functional federation" with powers belonging to the federal state of the FRY as well as the republics of the FRY. • Overall, the Serbian proposal discusses more the structure of the new Federal Government. 	<ul style="list-style-type: none"> • Montenegro proposes the establishment of two autonomous states working together in restricted areas as a "Union." • A referendum should be held both in Serbia and Montenegro to establish that a working relationship is desired between the two states. • Overall, the Montenegrin proposal discusses more the specific issues to be handled in the new "Union."

Structure of the Combined States

FRY/Koštica's Perspective:	Montenegro's Perspective:
<p>Supports a bi-cameral federal system using a "Chancellor Model" of government. The President of the Federal Government has nominal powers.</p>	<p>Two autonomous, independent and internationally recognised states will work together as a "Union" consisting of an Assembly of the Union, President of the Union and a Council of Ministers.</p>

* Research Assistant, Centre for European Policy Studies, Brussels.

Responsibilities of the Combined States

FRY/Koštica's Perspective:

The Federal Government will be solely responsible for the following issues:

- foreign policy,
- national defence,
- monetary system,
- customs system,
- transportation,
- obligation law,
- securities.

The Federal Government will be jointly responsible with the Republic Governments to establish regulation in the following issues (the Federal Parliament is to endorse framework laws only that are made concrete by the respective Republics' Legislatures):

- property relations,
- basic rights and freedoms, including the protection of minority rights, as well as basic social rights,
- taxation system,
- banking system,
- trade law,
- pensions,
- insurance of property and persons.

Montenegro's Perspective:

The "Union" would have the following responsibilities (in a sense of coordinating really, not wholly deciding):

- defence and external security of the Union,
- foreign policy of the Union,
- securing a common market,
- securing a convertible currency.

The President

FRY/Koštica's Perspective:

- The President of the Federal Government should be elected by the Federal Legislature in its regular decision making procedure and would be elected alternately from the two Republics.
- Should have the powers of representation and to nominate senior and state officials in the executive branch and judiciary (nominal powers).

Montenegro's Perspective:

- The President of the "Union" shall be elected by the Assembly (and then approved by the member-states Assemblies).
-

Legislature

FRY/Koštica's Perspective:

- The Federal Assembly would be the supreme representative and legislative body of the Federation and have a bi-cameral structure.
- The Chamber of Republics, the upper house, would have equal number of deputies from each Republic and they would represent the interests of their respective Republics in the chamber.

The Chamber of Citizens, the lower house, would exercise the constitutional principle of equality of the citizens of the federation. These deputies represent the interests of the federation as a whole.

Montenegro's Perspective:

- The Assembly of the Union would have one house – the deputies of the assembly would be chosen on a parity basis within the framework of exclusive legislative competence of the member-states.
 - The President and Vice-President of the Assembly shall be from different member-states, and shall rotate every 2 years, within a 4-year term.
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Prime Minister/Council of Ministers

<p>FRY/Koštica's Perspective:</p> <ul style="list-style-type: none">• The Federal Government should be organised following the "Chancellor Model."• The Prime Minister would be elected alternatively from the two Republics and accounts to the Federal Assembly, while ministers account to him/her.• There should be five ministers (apart from the Prime Minister) in charge of the ministries:<ul style="list-style-type: none">- Minister of Justice,- Minister of Defence,- Minister of Foreign Relations,- Minister of Finance,- Minister of Transportation.	<p>Montenegro's Perspective:</p> <ul style="list-style-type: none">• The Council of Ministers will be composed of a President (i.e. Prime Minister), Vice-President and Ministers of Foreign Affairs, Defence, Finance and Economic Relations.• The Vice-President and President of the Council should be from different member-states and the Deputy Ministers shall be from a different member-state with respect to the Ministers.• The President of the Union and the President of the Council of Ministers shall be from different member-states and shall represent the "majority parties" or coalitions in the member-states.
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Defence

<p>FRY/Koštica's Perspective:</p> <ul style="list-style-type: none">• The issues of defence would be under the control of the Federal Government.	<p>Montenegro's Perspective:</p> <ul style="list-style-type: none">• Montenegro and Serbia will have their own armies.• The common activities of the army will be under control of the President of the Union, exclusively on the basis of decisions of the Supreme Defence Council (which will consist of the member-states Presidents and the President of the Union).• The President of each state shall be in command of that state's army.• Defence ministers rotate every second year within a four-year term of office.
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Foreign Policy

FRY/Koštica's Perspective:

- Foreign policy is under the direction of the Federal Government, however, the Republics may be allowed to exercise autonomously different forms of international co-operation in the spheres of economic relations and diverse modes of regional integration.

Montenegro's Perspective:

- Foreign policy shall be conducted autonomously but the member-states should work together to facilitate incorporation into all European and Euro-Atlantic organisations.
- The Council of Ministers will have a Minister of Foreign Affairs that will be rotated between the Ministers of Foreign Affairs of the two member-states, each for a 2-year period. The Union's Minister of Foreign Affairs will harmonise and co-ordinate the foreign policies of the member-states of the Union.
- Each member-state shall be autonomous in establishing their diplomatic and consular offices, however, the member-states can work together to harmonise their policy, interests and activities in this sphere and perhaps jointly use facilities abroad.
- If a member-state does not have a direct interest in an international organisation, then it trusts the other member-state to act on its behalf.

Common Market and Currency

FRY/Koštica's Perspective:

- The Federal Government would be in control of establishing a market economy and a single national bank.

Montenegro's Position:

- A common currency will be established and free flow of goods, capital, people and information will be allowed.
- The Union will be a single customs area with no internal tariffs.
- Customs systems shall be under the competence of the member-states but will be harmonised through special agreements between the member-states.
- There shall be a common convertible currency, however, each member-state shall retain the right to its own monetary system if the constraints are too large.
- Each member-state shall have its own central bank.

EU Integration

FRY/Koštica's Perspective:

- Supports Integration into the EU.

Montenegro's Position:

- Supports Integration into Euro-Atlantic structures.

Annex III

Government of Montenegro Platform for Talks with Government of Serbia on New Relations between the Two States

I. Past Montenegro-Serbia Relations in Fry

1. On the grounds of the historical and centuries-old sovereignty of Montenegro and the inalienable right of Montenegro to self-determination, verified by the decisions of the United Nations and by the Badinter Commission and proclaimed by the Montenegrin Constitution of 1992:

- The Citizens of Montenegro decided to form a common state with Serbia – the Federal Republic of Yugoslavia. The Citizens of Montenegro wanted and expected FRY to be a democratic community of equal Republics and equal citizens. Nevertheless, many abuses of the FRY institutions and bodies occurred during its existence, which resulted in undemocratic relations and gross violations of the Constitutional principles of equality of the Republics and citizens, at the expense of Montenegro.

- After the parliamentary elections in Montenegro in May 1998, the Federal Government and the Chamber of the Republics of the Assembly of the FRY were constituted in a fashion that flagrantly violated the FRY Constitution, the constitutional rights and the will of the citizens of Montenegro expressed in these legal, legitimate and democratic elections. All federal institutions, and in particular the judicial and the administrative ones, were functioning and taking decisions in contravention to the legal order of the FRY, carrying out undemocratic and unitary policies of the then federal administration and thus violating individual and collective rights of citizens of the Republic of Montenegro. The most blatant manifestations of such policies were the unconstitutional declaration of state of war and the abuses thereof, as well as decisions that ignored fundamental rights of citizens of Montenegro, which must never be violated, not even during circumstances of war.

- The FRY competences in the field of foreign affairs, border crossings and control of goods, services and passenger transport across the borders, as well as the status of foreigners were discriminative and with elements of obstruction against Montenegro.

- The formulation and implementation of the FRY foreign policy was conducted without participation of and contrary to the political positions of the Montenegrin authorities, as well as in defiance of modern concepts of international relations. The equal participation principle of Montenegro and

Serbia in appointments and staff recruiting for the diplomatic and consular missions was not respected either.

- The principle of a single Yugoslav market was being constantly infringed upon, such infringements involving illegitimate checkpoints with the character of customs posts between the two Republics and violation of basic rights of citizens of Montenegro. Their property was being confiscated; the flow of goods and capital was being prevented, as well as free entrepreneurship and equal treatment of economic entities.

- The monetary and the foreign exchange policy were conducted without Montenegro's equal participation in decision-making and control, and in contravention to the Constitution and the Laws, especially in issuing new money and setting interest rates.

- The VJ (Yugoslav Army) was particularly misused, especially its commanding system (military and civilian). The Montenegrin President was excluded from the commanding system and the VJ became an instrument used for political purposes with the intention of destabilising Montenegro's legitimate authorities.

- After the Presidential elections in Montenegro there were encouragements and attempts to overthrow by force the democratically, legally and legitimately elected Montenegrin authorities.

- On 6 July 2000, illegal and illegitimate changes of the FRY Constitution were carried out; they meant constitutional violence against Montenegro. These changes instituted procedures for the election of the FRY President and the Chamber of the Republics of the Federal Assembly appropriate for a unitary rather than a composite state. Montenegro, given its significantly smaller constituency, lost the possibility to influence the election of the Federal President. Also, now that the Republic Assemblies no longer have the right to elect deputies to the Chamber of the Republics, this Chamber has ceased to protect the interests of the Republics. In an exercise of constitutional violence, and without the obligatory agreement of the Republic Assemblies, federal electoral legislation was taken away from the republican and transferred to the federal competence. These changes highlighted the absence of a constitutional mechanism that could protect equality and sovereignty of Montenegro against political violence.

2. Therefore, it is necessary to redefine the relations between Montenegro and Serbia on a new basis. The fact that the Serbian Constitution has never been brought in line with the FRY Constitution (this has never been even attempted) makes the political conditions for restructuring the relationship between Montenegro and Serbia still more complicated.

3.

- The FRY Constitution of 1992 cannot be a basis for establishing a new relationship between Montenegro and Serbia.

- The relationship between the states of Montenegro and Serbia should be secured through new procedures.

Montenegro has been seriously and responsibly preparing for talks with Serbia on the subject of the basis, framework and directions of their future relationship. This relationship can only be based on:

- The historical, state, national and cultural identity of the two states and two peoples, as well as on the sovereign right of citizens of both states to autonomously make decisions regarding their destiny.

- The tasks of common interest to Montenegro and Serbia are to be entrusted to the Union and to be conducted on an equal footing and subjected to the same level of control.

- On that ground, Montenegro offers the Platform for talks on a future Union, which should be based on a common interest of both states, as well as on the historical and current realities.

II. The Character of a Future Union of the Internationally Recognised States of Montenegro and Serbia

The starting point for a new Union of Montenegro and Serbia lies in the inalienable right of the citizens to decide upon their national and state destiny. This can be the only basis for determining the common interest of the Union of Montenegro and Serbia. This will create conditions to overcome the obstacles in their mutual relationship.

- Montenegro and Serbia will be independent and internationally recognised states.

- The independence of Montenegro and Serbia will be decided through a referendum of their citizens, who have the sovereign right to determine the destiny of their state.

- Independent and internationally recognised Montenegro and Serbia will constitute the Union of two states by referendum vote of their citizens.

- Montenegro and Serbia shall form a Union, aware of the common interest and the utility of such association, building a structure based on the principles and relations acceptable for both.

- In this Union, the citizens, their associations, companies and institutions should have a wide range of opportunities to fulfil their needs and interests. Instead of the hierarchical pyramid of alienated and

bureaucratized state institutions, the new model of the Union of Montenegro and Serbia should provide decision-making on clear and easily applicable principles governing conduct of the states.

- Montenegro and Serbia, independent from each other regarding questions of national and state sovereignty, in fulfilling the common interest should function without centralisation.
- For the Union of Serbia and Montenegro the only acceptable concept is the one that has as the basis the constitutional position of the states as genuine holders of sovereignty, delegating part of their competences, those that can effectively be carried out in the Union on an equal footing and in a rational manner.

III. Principles of the Union of Montenegro and Serbia

The principles of the Union:

- The equality within the Union of states
- Each state conducting in a sovereign fashion all the state affairs within its competence
- The Union carrying out only those activities entrusted to it
- Competences of the Union to be interpreted restrictively
- Competences of the Union to be performed, as a rule, by bodies of the member states and exceptionally by bodies of the Union.
- Bodies of the Union constituted on the basis of the principle of equality and consensual decision-making
- Open society
- Respect of international standards, human rights and freedoms, including special minority rights
- Market economy with domination of private ownership and private entrepreneurship
- Rule of law
- Constitutionality and legality of Montenegro and Serbia.

IV. Competences of the Union of Montenegro and Serbia

The competences of the Union should be considerably narrower than today's competences of the FRY. This should minimise potential conflicts, while at the same time expressing a new character of the Union.

The Union would have the following responsibilities:

- Defence and external security of the Union
- Foreign policy of the Union
- Securing a common market and a convertible currency

Given the negative experience in the functioning of the FRY bodies, the bodies of the Union and the procedure for their formation and decision-making should be defined by an act of the Union

1. Defence and External Security of the Union

- Montenegro and Serbia shall have their own armies.
- The army must be professional; the military service shall be done in one's member state and shall not last longer than six months.
- The common activities of the army, of importance for both Montenegro and Serbia, shall be under command of the President of the Union, exclusively on the basis of decisions of the Supreme Defence Council.
- The Supreme Defence Council shall decide by consensus of the member states presidents and the president of the Union.
- The president of the state shall be in command of the army of the member state of which he is the president.
- Having in mind the character of the Union it is suggested that defence ministers rotate every second year within a four-year term of office.

2. Foreign Policy of the Union

Member states, as separate persons in terms of international law, shall be autonomous in formulating and conducting foreign policy and international cooperation and shall do so in accordance with their constitutional capacity, their principles, goals and priorities. Foreign policy activity of the Union shall be aimed at facilitating integration of its member states into the international community, particularly into the Euro-Atlantic organisations and institutions, and making possible a better and more successful international cooperation and development. To this end the Union shall be engaged in harmonising and coordinating the policies, priorities and activities of its member states.

Foreign policy activity of the Union shall be harmonised and coordinated according to the foreign policy priorities, tasks and activities of its member states. The member states shall participate in these affairs on an equal basis and shall have equal control in the matters of the Union with clearly differentiated responsibilities of the Union from those of the member states.

Within the Council of Ministers of the Union, the functions of the Coordinator - Minister for Foreign Affairs of the Union shall be rotated between the Ministers for Foreign Affairs of the two member-states, each of them performing the function during a 2-year period. The Coordinator - Minister for Foreign Affairs of the Union, shall perform, with the assistance of the Union's institutions, the tasks of harmonisation and coordination of foreign policy and of the activities of the member-states of the Union. The Coordinator - Minister for Foreign Affairs of the Union shall discuss, in regular consultations with the Minister for Foreign Affairs of the other member state, all foreign policy and international cooperation issues of common interest.

The member states shall be autonomous in establishing their diplomatic and consular offices, appointing ambassadors and consuls general in accordance with their policy, interests and priorities. In mutual consultations and within the Union they shall coordinate and harmonise their policy, interests and activities in this sphere, and discuss the manner and conditions for joint use of buildings and the overall infrastructure abroad. Also, one member-state shall entrust the other member-state with the duties and tasks of representing her interests in certain countries and/or international organisations where one member-state does not have an interest or possibilities for direct presence with her own diplomatic/consular office.

3. Common Market and Convertible Currency

The Union would have a common, externally convertible, currency and free flow of goods, capital, people and information.

V. Union Institutions, Electoral Procedures and Decision-Making Processes

The responsibilities under the competence of the Union would be conducted through the Assembly of the Union, President of the Union and the Council of Ministers.

1. The Assembly of the Union

The Assembly of the Union would have one 'House' and the deputies would be chosen on a parity basis within the framework of exclusive legislative competence of the member-states. The deputies would be obliged to keep the Assemblies of their member-states informed on the approved agenda.

The President of the Assembly and the Vice-President shall be from different member-states, and shall rotate every 2 years, within a 4-year term of office.

The member-state, through its Assembly, would have the right to initiate a separate protection procedure regarding the acts from the competence of the Assembly of the Union.

2. The President of the Union shall represent the Union.

The President of the Union shall be elected to and dismissed from the post by the Assembly of the Union, subject to prior agreement of the Assemblies of member states.

The President of the Union and the President of the Council of Ministers shall be from different member-states and shall represent the 'majority parties' or coalitions in the member states.

At the request of the Government members from the Social Democratic Party (SDP) the Government has taken note of the position of SDP that office of President of the Union is not in accordance with the character of a Union of internationally recognised states of Montenegro and Serbia.

3. The Council of Ministers of the Union

The Council of Ministers of the Union shall perform the assigned executive tasks within the competence of the Union and shall include the President, the Vice-president and the Ministers for Foreign Affairs, Defence, Finance, and Economic Relations.

The Vice-president of the Council of Ministers shall be from a different member-state with respect to that of the President, just as the Deputy Ministers shall be from a different member-state with respect to the Ministers.

The member-state, through its government, would have the right to initiate a special protection procedure regarding the acts from the competence of the Council of Ministers.

VI. The Basis of Economic Relations between Serbia and Montenegro

In the sphere of economic relations, the Union will have:

- *A common market* - free flow of goods, capital, people and information in the territory of the Union with protected 'property rights', freedom of establishment of economic entities, as well as freedom of contract.

- *A single customs area* - the Union shall be a single customs area without internal tariffs, in conformity with WTO regulations deriving from developing country status.

The customs system shall be under the competence of the member states. Customs policy and tariff rates could be harmonised through special agreements that would secure specific interests of the member states (strategic goods, strategic development ideas, customs free zones and off-shore companies, etc.).

- *A common convertible currency* - The currency of the Union shall have external convertibility and shall be backed by reliable hard currency reserves.

Convertibility would be defined by an act of the Union.

Each member-state shall retain the right to its own monetary system should the monetary union prove a constraint to the realisation of its strategic commitments due to impaired monetary stability or influence of other factors. Each member state shall have its own central bank.

Annex IV

Koštica/Yugoslavia Proposal of January 2001

Throughout their contemporary history, Serbia and Montenegro aspired to state unification. They deemed the creation of a joint state their natural objective and a key precondition for materialising their interests and securing their internal and external freedoms. There is no doubt that our joint efforts produced many good things, but it is also true that it is only now that the road to a comprehensive and democratic transformation of the country has opened to us, and that we have just entered the process of creating conditions for proper constitutional restructuring of relations in the federation and the establishment of a stable joint state.

There are a large number of historical and actual reasons in favour of the preservation and restructuring of the Serbian-Montenegrin joint state. They exceed by far those in favour of the separation of the two republics, a larger part of the executive authorities in Montenegro have been insisting on. The reasons for preserving the state alliance are deep historic links between the two peoples, their language and tradition, religion and culture, firm family and property ties, and those granted citizens one republic, who enjoy permanent residence in the other or have inhabited it for quite a long time. What Serbia and Montenegro also share are a single economic environment, joint development interests, as well as the interests of common defence. Another important fact is that Serbia and Montenegro are equally multi-ethnic and multi-cultural states, with approximately for identical population share of different language, religion and culture. After the democratic changes, they are supposed to share the state responsibility for minorities and guarantee their position by sound constitutional and legal mechanisms. In less than two months, the FRY managed to improve considerably its standing within the international community. Moreover, it gained the reputation of a country international organisations can rely on in establishing understanding and cooperation in the region.

The task of restructuring the state is responsible and difficult indeed. This task, however, is not unsolvable if there is a political goodwill and readiness for compromises. We should not be afraid of the fact that Montenegro and Serbia, as old European states, internationally recognised two centuries ago, have every right to seek to safeguard their important national attributes in their joint state as well. Quite the contrary, it is precisely this fact that can make the challenge easier, because the need for both federal units for political autonomy within the state alliance can be fulfilled permanently by modern and specific federal solutions. After all, federalism emerged in contemporary history as a response to the question of how to organise complex states that comprise several political units. Federalism responds to

their readiness to unite on the basis of common goals, while maintaining their autonomy and specific national attributes in the spheres falling within their autonomous jurisdiction. Each federation resolved this problem in its own way, having no model at all, since it was always a specific case of the creation and operation of a complex state. Just like all others, the federation of Serbia and Montenegro is also specific. This means that it has to identify individual and atypical solutions for its specific internal structure.

What has always been pointed out as the major obstacle to a healthy federal balance is the existing difference in the size and population of the two federal units. For that reason, the system is allegedly to incline to the two extremes, both of them being equally dangerous to the operation of the system. Basically, we are talking about the tendency of centralisation on the one hand, and the tendency of internal blockade on the other. To say the truth, the two tendencies had torn apart the present-day two-member federation indeed, all until they began to question its existence. However, this is not the consequence of the federal structure itself, as the advocates of Montenegro's secession are trying to prove, but rather the fact that the existing Constitution of the Federal Republic of Yugoslavia is the result of party deal made by the then ruling parties in Serbia and Montenegro, which, with the passage of time, they ceased to comply with themselves. We now have a unique chance of devising better constitutional solutions, endorse them in a legitimate procedure, and, as democrats and legalists, abide by them consistently.

It is precisely because of the set structure of the Serbian- Montenegrin federation, and the existing disproportion in size, the concept of functional federation, adapted to the local circumstances, is the most purposeful one. There are three basic characteristics of such a concept.

- 1) The number of functions to be performed at the federal level should be minimal, basically defined by the federal units' need for the joint and effective resolution of issues of common interest;
- 2) Cooperation between federal and republican bodies must exist in the processes of decision-making and performing joint functions alike.
- 3) All functions that are not referred to the federal level are performed autonomously by the republics, which also means that they can establish direct cooperation in the joint performance of those functions.

These three important characteristics will secure that the two following basic principles be exercised in theory and practice alike; the equality of the federal units and the operability of the federation as a whole.

A. Power-sharing and operations of the federation

The number of federal powers is defined by the elementary functions that make a federal state operable in its internal and external public life. These are:

- protection of basic rights and freedoms, with the necessary minimum of social rights;
- foreign policy;
- national defence;
- basics of economic system;
- transportation and communications.

These are also the minimal powers a state should exercise if strategically oriented to European integration, which is no doubt the wish and substantial orientation of the citizens of Serbia and Montenegro.

In order to secure simultaneously the equality of the two federal units and the operability of the federation as a whole, I propose several principles that would pave the way to the establishment of a system of multiple balances.

The first principle implies the bi-cameral adoption of all fundamental federal decisions - laws and other regulations, on the basis of absolute majority in both chambers. Due to the specific structure of our federation, the upper house, as a body directly representing the republics, should have general jurisdiction, just like the lower house.

When it comes to the exercising of federal powers, a difference should be made between those fully exercised by federal bodies - legislative, executive and judicial, and those exercised jointly by federal and republican organs. In the first case, all regulations are adopted and implemented by the federal bodies.

They include the following federal powers:

- foreign policy
- national defence,
- monetary system,
- customs system,
- transportation,
- obligation law,
- securities.

When it comes to implementation of the laws relevant to the above-listed, the Federal Government may delegate its executive power to the republican executive and administrative organs.

In the second case of mixed powers, the federal parliament is to endorse framework laws only that are made concrete by the republics' legislatures, and those legal regulations are implemented by their executive and administrative organs. These powers are as follows:

- basic rights and freedoms, including the protection of minority rights, as well as basic social rights,
- property relations,
- taxation system,
- banking system,
- trade law,
- pensions,
- insurance of property and persons.

When it comes to foreign policy and international relations, the future federal constitution should allow for the possibility that the republics exercise autonomously different forms of international cooperation in the spheres of economic relations and diverse modes of regional integration.

B. Federal Institutions

Their composition and powers, as well as the way in which they are elected and the way in which they make decisions should make the federal institutions a consistent reflection of the functional federation concept.

As the supreme representative and legislative body of the federation, the Federal Assembly should have bi-cameral structure, that is, comprise the Chamber of Republics and the Chamber of Citizens. It is understood that the Chamber of Republics has the equal number of deputies from the federal units, who represent the interests of their respective republics in the chamber. Having in mind the local circumstances, it would be most purposeful if the deputies to the upper house were elected in republican legislatures in accordance with the principle of proportionality, so that their composition could reflect the will of the voters expressed through the structure of the republican parliaments. Given the fact that this chamber has general jurisdiction in the parliamentary decision-making, its deputies, even though they are representatives of the republics, should not have imperative mandates. Renouncing their imperative mandates would help the parliamentary life develop, which is the sine qua non condition for each and

every form of democracy, including that in federations. This does not mean that the legislatures will not establish guidelines for the activity of deputies to the Chamber of Republics. Such guidelines are assumed in federations, but not with the intention of blocking the decision-making process in federal assemblies.

The Chamber of Citizens of the Federal Assembly should exercise the constitutional principle of equality of the citizens of the federation. Given the specific structure of the federation, a corrective mechanism is needed here in the form of a clause specifying the smallest mandatory number of representatives of a republic to the chamber. Although this might provoke the objection that this would affect to a degree the principle of equality of the citizens represented in the chamber, I am convinced that a certain correction of the "one man-one vote" principle would be beneficial to the parliamentary life. This would secure that the smaller federal unit is represented in parliamentary committees and commissions without exception. Furthermore, this would facilitate the election of the Prime Minister, when he/she is elected from Montenegro. Needless to say, the deputies to the lower house have free mandates, regardless of election units they are elected in, and they represent the interests of the federation as a whole.

It is necessary that the joint state of Serbia and Montenegro should have the President of the Republic. The president should have the powers of representation and nominate senior state officials in the executive branch and judiciary. The president would also chair the Supreme Defence Council that would also include the presidents of the republics. The president of the Republic should be elected by the Federal Assembly in its regular decision-making procedure. The dismissal of the president, however, is to be carried out solely on the basis of a ruling by the Federal Court that would determine whether the president violated the FRY Constitution by his conduct. The President of the Republic would be elected alternately from the two republics.

The Federal Government should be organised following the chancellor model. It is the most appropriate mode for the existing overall organisation of the federal authority. Given the small number of federal powers and the complexity of the decision-making process, it is of utmost importance that the executive branch and its major organ, the government, be organised in the most efficient manner possible. In this context, it is only the prime minister, elected alternately from the two republics, that accounts to the Federal Assembly, while ministers account to him/her. The ministerial composition depends solely on the choice by the prime minister, taking utmost care about the equality of the two republics. The government should be independent, responsible to the assembly and rational. Apart from the prime minister, it should include only five ministers in charge of the federal ministries of justice, defence, foreign relations, finance and transportation.

The Federal Government is elected by the two parliamentary chambers, but its dismissal will require a majority in one of them only. Proceeding from the specific federal structure, it is likely that the government will be formed by inter-republican party coalitions, because this is the only way for the government to secure a stable majority in both houses.

The federation should have a single court only, the Federal Court, which would perform both the constitutional and regular court functions. The usual constitutional and judicial control of constitutionality and legality on the federal level is also provided for. In the sphere of regular judiciary, the Federal Court would decide solely on extraordinary legal instruments, after all legal instruments within the two republics' judicial system are exhausted.

Given the fact that the federation will join important international conventions to protect basic rights and freedoms, the citizen and other legal entities will be able to initiate court proceedings in order to protect their violated rights with competent international courts as well.

Although the federation has minimal functions and rational bodies for their implementation, it should dislocate the headquarters of some of its institutions. Some of them would be in Podgorica or Cetinje.

Finally, draft constitutional amendments should by all means specify procedure by which the constitution is to be amended. Bearing in mind that in this concept the exponents of sovereignty (constituency power) are the citizens of the republics, a procedure should be defined to make it sure that their will is expressed efficiently. In this context, when it comes to changes relevant to the issue of the state statuses of the republics and the federation, the citizens of the republics will be those deciding the final instance.

I believe that a constitutional concept like this can secure to the utmost the common interests of Serbia and Montenegro and at the same time make it possible for the republics to achieve their own, special interests. However, even the best and most optimal of constitutional concepts will not be implemented in reality if the two basic preconditions are not fulfilled - political goodwill and the spirit of the rule of law. Once they are met, the citizens will be able to enjoy their rights and freedoms, and political power will be curbed by legal regulations formulated by the constitution and laws. This is also the only way for Serbia and Montenegro, on the one hand, and their joint state, on the other, to become part of modern Europe, with a good chance of being admitted to the democratic and prosperous community of European peoples and states.

Former Montenegrin Platform, August 1999

I The Basis of Defining the New Relationship between Montenegro and Serbia

1. Relationship between Montenegro and Serbia in FRY

Mindful of a century-old sovereignty of Montenegro, its inalienable right to self-determination which was verified by the decisions passed by the United Nations and the Badinter Commission as well as laid down by the Constitution of Montenegro from 1992:

- The citizens of the Republic of Montenegro decided to establish together with Serbia a joint state – the Federal Republic of Yugoslavia (FRY). Montenegrin citizens wished and expected FRY to be a democratic state founded on the equality of the citizens and its member republics. During the existence of FRY, the bodies and institutions of FRY have been misused which has resulted in undemocratic relations and the severe violation of the constitutional principle of the equality between the republics and citizens, at the expense of Montenegro.
- The Federal Government and the Upper House of the FRY were constituted by severe violating of the Constitution of the FRY, constitutional rights vested in the citizens of Montenegro, their will expressed at the legal, legitimate and democratic elections. All the federal institutions, particularly those from the area of judiciary and the government, worked and passed decisions by violating the FRY legal order, implementing undemocratic and unitary policy of the current federal government, by violating individual and collective rights of the citizens of the Republic of Montenegro. This was easily seen and obvious when the state of war was unconstitutionally declared and misused, and when they made decisions which disregarded elementary rights of the Montenegrin citizens, which should be safeguarded both in the time of peace and the state of war.
- The authority of the FRY in the area of international relations, border crossing, control of goods, services and transportation of the passengers abroad, status of foreigners has been carried out with discrimination and with the purpose to make pressure on Montenegro and blockade it.
- The FRY foreign policy has been determined and carried out opposite to the Montenegrin state policy, and in contrast to the contemporary concepts of international relations. The principle of equal participation of Montenegro and Serbia has not been followed when it came to carrying out personnel policy, diplomatic and consular activities.

- The unity of the Yugoslav market has been repeatedly disrupted by the introduction of customs control points at the borders between the Republics. Thus, the elementary rights of the citizens of the Republic of Montenegro have been violated. Their property has been confiscated, the trade of goods and money has been frustrated, entrepreneurship and equal treatment of enterprises prevented which is in contrast to obligatory law and economic procedures.
- Monetary and foreign currency policies have been carried out without the equal decision-making power and control of Montenegro opposite to the Constitution and the law, with regard to putting currency into circulation and determining interest rates.
- Yugoslav Army has been misused in particular. The power of the military Supreme Command has been usurped. The President of Montenegro has been excluded from the commandment structures of the Army and the Army has become a tool activated for political means, particularly with a purpose to destabilise legitimate authorities in Montenegro.
- After the presidential elections attempts to forcefully overthrow the democratically elected government were made in Montenegro.

2.

Therefore, it is necessary to re-define relations between Montenegro and Serbia on new basis. The fact that the Constitution of Serbia has not been harmonised with the Constitution of the FRY, nor have there been any attempts in this regard either, as well as international isolation of the most accountable persons in the FRY and Serbia additionally complicates political circumstances for a settlement of the relations between Montenegro and Serbia.

3.

The Constitution of FRY from 1992 can not be used as basis for the establishment of new relations between Montenegro and Serbia.

-New constitutional procedures should ensure legitimacy of the union and the implementation of the principles the union will be based on.

4.

Montenegro has definitely decided to negotiate with Serbia the basis, framework and the guidelines of their future relations. These relations can be merely based on:

- historical, sovereign, national and cultural identity of the two states and the two nations, and the sovereign right vested in the citizens of each state respectively to make decisions on its future independently.

- the functions of the union, which functions will define the way in which the organisation of the union will be ordered, will be laid down by the Constitutions of the state members which state members will assign these functions i.e. competences to the union in order to benefit from it.
- this is the basis of the Platform that Montenegro has proposed to Serbia in order to define future relations of the union which is to be established on the mutual interest of the two states, which interest is based on historical and present realities.

II. The Character of the Future Union between Montenegro and Serbia¹

The only acceptable conceptual starting point for the Union between Montenegro and Serbia is the inalienable right vested in its citizens to make decisions independently on their national identity. Only on such basis can the redefinition of the relations between Montenegro and Serbia carried out. Such union must ensure the development of democracy, rule of law, economic development, and linking up into European and transatlantic integration. This will mean the end of pressures and tensions in the mutual relations between the member states on the one hand and the end of its isolation by the international community on the other.

- Montenegro and Serbia will agree to found a union, aware of the benefits they will enjoy as a result of such an association. The legal order will be structured on the basis of principles and relations that are acceptable for them.
- This new union between Montenegro and Serbia should ensure a successful development of the two states in all the areas of the society. Within such dual structure, the citizens, the associations, enterprises and institutions should be able to carry out their rights and safeguard their interests in wide range of activities. A new model of the union between Montenegro and Serbia, which is to create an environment in which both states will participate in decision making process, should take place of a rigid hierarchy of government agencies prone to bureaucratism and alienation.
- Montenegro and Serbia will be independent of each other, separate, in matters pertaining to their state and national sovereignty, and achievement of their joint interests. Their functioning should be decentralised.

¹ *Alternative*: The character of the future union between Montenegro and Serbia, which could be the name of the future union too (hereinafter called the union between Montenegro and Serbia).

The only acceptable conceptual starting point for the Union between Montenegro and Serbia is one that assumes the member states being the sources of sovereignty which will assign those authorities to the union which can be carried out at this level, at the level of the union, in a manner which will ensure equality, rationality and realism.

III. The Principles of the Union between Montenegro and Serbia

The principles will be as follows:

- the equality of the member states and citizens
- Each member state will carry out its state jobs independently within its jurisdiction.
- The union will carry out only those jobs that are assigned to it
- the authority of union is limited
- the authority i.e. the competences of the union , as a rule, will be carried out by the bodies of the member states, and the bodies of the union will do it on exceptional basis
- the bodies of the union will be constituted on the parity basis for the most important bodies, and other bodies will be constituted on the basis of the principle of proportionality
- Foreign policy will ensure linking up to the European and transatlantic integration (UN, OSCE, EU, Partnership for Peace, World Trade Organisation, IMF, the World Bank, Stability Pact for the South East Europe).
- open society
- abiding by international standards, human rights and freedoms including the special rights of the minorities
- market economy, private property and entrepreneurship
- rule of law
- legality

IV. The Authority of the Union of Montenegro and Serbia

The jurisdiction of the union of Montenegro and Serbia needs to be significantly smaller than is the case at present in FRY.

The following areas would be under the jurisdiction of the union:

- Defence and security of the union
- Foreign policy

- The basis of the economic system of the union

The security system in road, railway and air traffic whilst maritime transport would be under the jurisdiction of Montenegro and the river transportation under the jurisdiction of Serbia.

Scientific and technical developments and the development strategy of the technical and technological system(system of energy, telecom system, transportation system, development of the system of quality and standardisation).

In view of negative experiences with regard to the functioning of the government agencies of the FRY it is necessary to establish the bodies of the union, the way in which the given bodies will be established and the decision-making system.

The decision-making system in the bodies of the union has to be organised in such a way which will exclude the marginalisation [of one of the entities] and safeguard the interests and ensure the equal status of both member states.

In order to adopt subsidiary laws regulating the functioning of different bodies of the Union, a separate protection procedure in which a by-law or a regulation will be adopted should be laid down by Constitution. This separate protection procedure would be carried out when so requested by a member state if it considers that a proposed law or a decision jeopardises or violates interest, rights or its equality within the union. The regular procedure for a by-law to be adopted would be suspended until the separate protection procedure is completed. In the separate procedure, the competent body, composed on the parity basis, would consider the bill or decision and submit their report and assessment, in due time. Following the completion of the separate protection procedure, the regular procedure for the adoption of the law or a decision or it will be continued or closed. The time envisaged for the special procedure should be cut in order to eliminate its misuse.

In line with the given principles, jobs that are under the jurisdiction of the union should be carried out as follows:

1. Defence and External Security of the Union

- Under the jurisdiction of the union will be the declaration of the state of war, imminent state of war and the state of emergency, but only with previous consent of both member states.
- The Military Supreme Council will make decisions through the consensus among the presidents of the member states and the president of the union.
- The President of the member state, as a member of the Military Supreme Council, will command the military units on the territory of his member

state, the member state of which he is the President , in accordance with the defence strategy which has been defined by the Military Supreme Court

- Joint military activities important for the entire territory of the union will be under the command of President of the union whose command will be based exclusively on the decisions made by the Military Supreme Council.
- The army has to be professional, military service will be completed within one's state of origin and will not last longer than 6 months.
- The Commanders of the armies and the commander of the Navy will be appointed by the president of the member state to which the commandment applies. The commanders will be appointed to their posts at the proposal of the Head of the Chief of Staff and on the basis of the consent given by the Military Supreme Council. At the proposal of the Army's Commander i.e. Navy's Commander, the President of the member state will appoint the heads of the corpuses and services operating in the territory of the member state of which he is the President.
- In view of the character of the union , it is proposed that the representatives of the member states take it in turns to hold the office of the Minister of Defence in the Council of Ministers, for the period of two years within the four-year mandate.

2. Foreign Policy of the Union

Foreign policy of the union will be devised and implemented with equal participation and control of member states, with a divided jurisdiction between the union and member state authorities.

As an optimal model, it is proposed that the representative of the member states take it in turns to hold the office of the Foreign Minister in the Council of Ministers for the period of two years within the four year mandate.

Foreign policy of the union has to be based on a platform that would secure the return into international institutions and the integration into European and Euro-Atlantic integration.

According to this platform, the member states will have full independence to carry out foreign affairs within their constitutional capacities.

The member states have to be substantially represented in embassies and other diplomatic representative institutions abroad. Member states may have their own representation bodies abroad, when they have particular interests to do so.

3. The Basis of the Economic System of the Union

It would be under the jurisdiction of the union to determine the basis of the economic system in line with the principles and relations of the economic system laid down by the Platform.

The jurisdiction would have to secure full economic independence of the member states so that they can promote and safeguard their particularities and achieve full economic growth of the member states and at the same time of the union.

4. The security system in road, railway and air traffic whilst maritime transport would be under the jurisdiction of Montenegro and the river transportation under the jurisdiction of Serbia.

The competences of the union with regard to the security system in road, railway and air traffic would be determined under the security system, whilst the rest would be under the jurisdiction of the member states. It is necessary for the maritime transport to be under the jurisdiction of Montenegro and for the river transportation to be under the jurisdiction of Serbia.

5. Scientific and Technical Development and the Strategy of the Development of the Technical and Technological Systems

The activities in these areas must be under the jurisdiction of the union because of their character and importance for the state members, whereas the joint interests of the member states must be respected.

V. The Union Bodies, Election Procedures and Decision-Making Procedures

Responsibilities under the jurisdiction of the union would be carried out through the parliament of the union, the president of the union, the ministerial council and the union court.

1. Parliament of the Union

The parliament of the union would have only one chamber whose MPs would be elected on the parity principle between the member states and under their exclusive legislative jurisdiction. The MPs would be obliged to inform their member states' Parliament of the agreed agenda.

The President of the parliament and the Vice-president of the Parliament will have to come from different member states and they will rotate every two years within the four-year mandate.

The member states would have the right to initiate , through their own parliament a separate protection procedure in relation to the laws and other regulations which are under the jurisdiction of the Parliament of the Union.

2. The President of the Union

The President of the union will represent the union.

The President of the union is elected and dismissed by the Parliament of the union on the basis of the previous consent of the member states.

The president of the union and the president of the ministerial council have to be from different member states and must represent the ruling party or the coalition of a member state.

3. Ministerial Council

The Ministerial Council of the union will have executive power under the jurisdiction of the union. There is President, one Vice-president of the Council, foreign minister, defence minister, justice minister, finance minister and the minister for economic relations.

President and the vice-president of the Council will have to come from different states. The ministers and the deputy ministers will have to be from different states as well.

Through its government, a member state will have the right to initiate a separate protection procedure in relation to the laws and other regulations that are under the competence of the government of the member state.

4. Judicial Bodies of the Union

The court of the union will be a judicial body of the union, which will hold the constitutional and judicial authority.

The member state that has appointed the president of the court of the union will have one judge less than the other member state.

The jurisdiction of court of the union will be adapted to the concept of the union, and the president of the court of the union cannot be from the same member state in two mandates running.

VI. The Basis for the Economic System of the Union between Montenegro and Serbia

Elementary principles of the level of authority:

Given that Montenegro and Serbia associate into a union for the mutual benefit and the need to safeguard their interest, the establishment of a new economic system will call for the following:

- that member states retain their functional sovereignty in decision-making that is in the interest of the member states
- that member states secure institutional sovereignty as well as the right to found new market institutions

- securing rationality and efficiency at the level of the union. It should be organised as follows:
 - a) enable free flow of commodities, capital, people and information within union
 - b) facilitate and secure integration into international organisations
 - c) reduce costs of organising and carrying out certain functions
- that the differences between Montenegro and Serbia should be respected
- that it is possible to suspend the power given to the union in extraordinary circumstances
- that the transition program , the transition into a new institutional system is defined.

VII. Dimensions of the Economic System

The market: free flow of commodities, capital, people and information within union.

The legal position of economic entities: the basis of the legal system will be defined at the level of the union, but all other regulations will be defined at the level of member states.

Foreign trade regime: Oriented toward liberalisation of the import-export regime in line with the regulations and procedures of the World Trade Organisation for developing countries.

The Customs System: The union will be one customs zone with no internal customs controls with a shared system of customs duties in line with the regulations of the World Trade Organisation for developing countries.

The implementation of the customs system will have to be under the authority of the member states.

The Fiscal System: will run a responsible fiscal policy, a public and transparent budget, a will have a productive policy of public expenditures and will change in order to harmonise policies with EU regulations.

Fiscal sovereignty will belong to the member states. A percentage of the income will be transferred from the member states to the union for carrying out shared responsibilities.

The basis of the tax system will be defined at the level of the union, whilst the fiscal system and its policy will remain under the jurisdiction of the member states.

Monetary Policy: A united monetary region oriented towards full independence of monetary decision-making power, this independence being

controlled by the member states; the introduction of a monetary board and a convertible currency and creating the conditions for integrating into the European monetary region.

The union will have to have a convertible currency with adequate foreign currency support and a currency board.

The member states will retain the right to developing an autonomous monetary system if the monetary union presents limitations for implementing strategic decisions as a consequence of the destruction of monetary stability or other factors.

Foreign currency system and foreign credit relations-free use of foreign currency, currency exchange and urgent normalisation of the relations with the international financial institutions. Foreign currency system will be under the jurisdiction within which monetary decision-making power is exercised, whilst the executive power will be executed under the jurisdiction of the member states.

Payment operations – Payment operations will be united for the union and harmonised with the regulations of the EU.

Banking system- joint basis of the banking system in line with regulations of the EU.

Legislation-Member states will define system laws. if they are agreed a joint law will be passed. The system laws should be harmonised with the laws of EU.

The parliament of the member states is to determine the terms of assigning a proportion of the sovereignty in this area onto the union.

Annex VI

Departments of the Governments of Serbia and the Federal Republic of Yugoslavia

Yugoslav Government:

President: Vojislav Koštunica

Prime Minister, Zoran Žižić

Deputy Prime Minister, Miroljub Labus

Foreign Affairs, Goran Svilanović

Defence Slobodan Krapović

Economy Danilo Vuksanović

Internal Affairs Zoran Živković

Finance Dragiša Pešić

Justice Momčilo Grbac

Agriculture Saša Vitošević

Transportation Zoran Šami

Telecommunications Boris Tadić

Labour, Health and Social Work Miodrag Kovac

Sport Vojislav Andrić

National and Ethnical Groups Rasim Ljajić

Religions Bogoljub Šijaković

Minister without Portfolio Velimir Radojević

Federal Secretary for Information Slobodan Orlić

Serbian Government:

President: Milan Milutinović

Prime Minister, Zoran Djindjić

Deputy Prime Ministers

Nebojša Čović

Dušan Mihajlović

Žarko Korac

Jozsef Kasza

Momèilo Perišia

Aleksandar Prvdia

Vuk Obradovia

Ministers:

Foreign economic matters, Goran Pitia

Economic restructuring and privatisation, Aleksandar Vlahovia

Telecommunications, Marija Raseta-Vukosavljevia

Education, Gašo Knezevia

Social and veteran matters, Gordana Matkovia

Science and technology, Dr. Dragan Domazet

Construction, Dragoslav Šumarac

Health, Obren Joksimovia

Culture, Branislav Leèia

Justice, Vladan Batia

Employment, Dragan Milovanovia

Interior minister, Dušan Mihajlovia

Agriculture, Dragan Veselinov

Trade and tourism, Slobodan Milošavljevia