

# Strategic Round-Table on Governance Transition

*in the Federal Republic of Yugoslavia  
Serbia & Montenegro*

*Hyatt Hotel, Belgrade*

*19-20 July 2002*



*Federal Republic  
of Yugoslavia*



## CONTENTS

<b>CONFERENCE REPORT</b> .....	1
- The Significance of the Belgrade Agreement .....	5
- Key Constitutional Issues .....	7
- The Importance of Public Awareness, Information, and Debate .....	10
- Lessons from Other Transitions .....	11
- Institutional Challenges and Transitional Management .....	14
- Recommendations for Next Steps in the Transition to State Union .....	15

### STATEMENTS MADE BY

- Introductory Address on Round-Table Process by Francis M. O'Donnell, UN Resident Coordinator and UNDP Resident Representative in the Federal Republic of Yugoslavia .....	19
- Observations on central/eastern European experience with transition and reform by Kalman Mizsei, UN Assistant Secretary-General and Director of the UNDP Regional Bureau for Europe and the CIS .....	24
- Keynote Address: A Vision of Our Place in the World by Vojislav Kostunica, President of the Federal Republic of Yugoslavia .....	29
- Five lessons on the Stages of Transition: from a "problem" to a "model" by Susan L. Woodward, Professor of Political Science at the Graduate Center of the City University of New York .....	35
- Kaynote Address: A Joint Approach to European Integration by Miroljub Labus, Deputy Prime Minister of the Government of the Federal Republic of Yugoslavia .....	38
- Five Constitutional and Institutional Lessons from the Experience of Poland by Danuta Huebner, State Secretary for EU Integration of the Republic of Poland .....	44
- Kaynote Address: Serbia's Place in the Joint Partnership by Zarko Korac, Deputy Prime Minister of Government of the Republic of Serbia .....	50
- Five Key Constitutional and Institutional Foundations for Human Security by Ivan Krastev, Chairman and Research Director of the Center for Liberal Strategies in Sofia, Bulgaria .....	54
- Kaynote Address: Montenegro's Place in the Joint Partnership by Milo Djukanovic, President of the Republic of Montenegro .....	57
- Five Key Elements to Costa Rica's Success with Ecology and Human Security by Rene Castro, Former Environment Minister in the Government of Costa Rica .....	61
- Jan Willem Blankert, Delegation of the European Commission in Belgrade .....	66

### SPEECHES BY MEMBERS OF THE CONSTITUTIONAL CHARTER COMMISSION

.....	71
- Dragoljub Micunovic .....	71
- Dragor Hiber .....	76
- Slobodan Gavrilovic .....	78
- Dragan Kujovic .....	81

## ANNEXES

- Annex A – Programme
- Annex B – List of Participants
- Annex C – Press Releases

**Strategic Roundtable and Workshop  
on Governance Transition  
Belgrade, July 19-20, 2002**

Executive Summary

On July 19, 2002, in response to a request from national leaders, the United Nations Development Programme hosted a *Strategic Roundtable on Governance Transition* in the Federal Republic of Yugoslavia in Belgrade, featuring most of the signatories of the Belgrade Agreement, invited international experts on transition, and a large representation of government officials and the international community. The high-level meeting on the transition from the Yugoslav federation to a new state union of Serbia and Montenegro was followed the next day with an expert-level workshop of members of the Constitutional Charter Commission, senior officials from government ministries, and local and international experts aimed at making the charter's implementation and the transition as smooth as possible.

Aimed to complement the diplomatic assistance of the EU with UNDP's global experience on governance policy and its international network of experts and officials experienced with governance transition, particularly from countries of central and southeastern Europe, the meetings generated phenomenal turn-out, intensive media interest, and a host of practical suggestions for a successful transition.

This summary of the discussion at the two meetings focuses on (1) the significance of the Belgrade Agreement for unblocking the process of European integration and a new international identity for Serbia and Montenegro; (2) the continuing disagreements about the concept of the state union being drafted by the parliamentary commission and the overwhelming consensus on the need, whatever the details, for a functioning state; (3) the vital importance of its democratic legitimacy and therefore the increased need for public awareness, information, and dialogue as the constitutional process proceeds; and (4) six lessons to be considered from other governance transitions (that a weak state can be as oppressive as a repressive one; the danger of rapid institutional decline if forward planning does not occur; that "people matter strongly," reforms of health, education, and social security are as important as economic reforms, and growing poverty in Serbia and Montenegro cannot be ignored; to beware of early winners who can block the next stage of reforms, to avoid zero-sum games in the constitution, and to define your own interests in negotiations with the EU).

Among the outcomes of the Roundtable and the subsequent Workshop were:

- the urgent need for forward planning and a strategic framework to manage the institutional transition, personnel redeployment, and interdependencies among constitutional, legal, institutional, and transitional issues, including interim arrangements and timetables;
- a dramatic awareness of the gaps in some institutional capacities, both currently and in the design of the state union;
- the need to harmonize decision-making procedures, intergovernmental communication, and citizenship rights, not just economic relations;
- the widespread wish to bring the constitutional uncertainty and legal vacuum to a rapid conclusion, while recognizing that the charter can be only the first step toward the creation of a *member state*, as opposed to a nation state, as the constitution process and European integration process go hand-in-hand;
- the broadly expressed desire to foster more public awareness, information, and debate on key constitutional and transition issues, including media coverage and engagement of civil society organizations;

- a recognition of an emerging network of active stakeholders in the structural changes;
- a real concern that issues of growing poverty, residual humanitarian needs, and social cohesion not be neglected in the process;
- and a clear expectation that external assistance from the EU, UN, and other members of the international community will be crucial in these tasks.

### **Governance**

Governance is the system of values, policies and institutions by which a society manages its economic, political and social affairs through interactions within and among the state, civil society and private sector.

- *It is how a society organizes itself to make and implement decisions, mediate differences and exercise legal rights and obligations*

- *It comprises the rules, institutions and practices that set limits and provide incentives*

It operates at every level of human enterprise.

*Source: Governance for Human Development (UNDP FRY, December 2000)*

## **CONFERENCE REPORT\***

On July 19, 2002, in response to a request from national leaders, the United Nations Development Programme hosted a *Strategic Roundtable on Governance Transition* in the Federal Republic of Yugoslavia in Belgrade, featuring most of the signatories of the Belgrade Agreement,<sup>1</sup> invited international experts on transition, and a large representation of government officials and the international community. The high-level meeting on the transition from the Yugoslav federation to a new state union of Serbia and Montenegro was followed the next day with an expert-level workshop of members of the parliamentary Constitutional Charter Commission,<sup>2</sup> senior officials from government ministries, and local and international experts aimed at making the charter's implementation and the transition as smooth as possible.

\* The report was prepared with the support of Susan L. Woodward, Professor of Political Science at The Graduate Center of the City University of New York.

<sup>1</sup> The Belgrade Agreement is a framework (called "proceeding points") agreed on 14 March 2002 by H.E. Vojislav Kostunica, President of the Federal Republic of Yugoslavia, H.E. Prof. Miroljub Labus, Deputy Federal Prime Minister, H.E. Milo Djukanovic, President of the Republic of Montenegro, H.E. Zoran Djindjic, Prime Minister of the Republic of Serbia, and H.E. Filip Vujanovic, Prime Minister of the Republic of Montenegro, and witnessed by the European Union High Representative for Foreign and Security Policy, Javier Solana, for restructuring relations between Serbia and Montenegro.

<sup>2</sup> In particular, all nine members of the drafting sub-commission participated in the meetings: Dragoljub Micunovic, Slobodan Gavrilovic, Zoran Sami, Dragan Hiber, Bosko Ristic, Dragan Jovic, Dragan Kujovic, Miodrag Vukovic, and Ferhad Dinos.

Born out of high-level consultations with national leaders by UNDP in FRY in the preceding months,<sup>3</sup> this initiative aimed to complement the diplomatic activities of the EU in facilitating the political agreement with UNDP's global experience on governance policy and its focus on human development as captured in the Millennium Development Goals. The Roundtable provided a forum for the signatories and the members of the parliamentary charter commission to present their visions for the new state union to a public audience. They were joined by eminent international experts and officials, primarily from countries of central and south-eastern Europe which have been undergoing reform for nearly a decade, to share their experience with transition, the fund of UNDP knowledge on best practices, and possible lessons for the Yugoslav transition.



<sup>3</sup> These consultations were undertaken by Francis M. O'Donnell, who presented his credentials in May 2002, following his appointment as UN Resident Coordinator for the Federal Republic of Yugoslavia by UN Secretary-General Mr. Kofi Annan, and UNDP Administrator, Mr. Mark Malloch Brown, respectively.

## **Good Governance for Human Development**

### ***Developing capacities for good governance is a primary means to promote human development***

- *Fosters an enabling environment and the equitable distribution of resources in dealing with poverty and inequality*
- *Emphasis for development cooperation moves upstream, to the level of policy dialogue and institutional development in helping countries meet the complex challenges of change*
- *Empowers voice and participation of poor in governance and decision-making processes*
- *Promotes women's advancement through empowerment, an economic base, education and legal rights*
- *Enables three types of governance actors to work collectively in finding broad-based consensus-building solutions to poverty and inequality*
- *Promotes the principles of good governance*

*Source: Governance for Human Development (UNDP FRY, December 2000)*

The meetings exceeded all expectations – in the level of public interest, turnout at the meetings, and timeliness of the event. Remarkable as it may seem, the Roundtable was the first time that the main players from the Federal, Serbian, and Montenegrin governments appeared together in public to discuss the Agreement. They presented the constitutional issues at stake, their goals for the new union, and their expectations of the increased cooperation with the EU. Turnout at both days was phenomenal, and the event generated intense, widespread, and recurrent media coverage. Moreover, the timing of the event was unusually fortuitous, coming at a crucial juncture in the constitutional deliberations. Faced at the time with an end-July deadline, the constitutional commission had reached the truly

divisive issues, generating pessimism among some members and outsiders about their ability to complete the task on time, obtain ratification by their respective parliaments, and win democratic legitimacy during a fall season packed with elections in both republics.

Thus, alongside continuing EU diplomatic attention, the Roundtable provided an opportunity for the signatories of the Belgrade Agreement themselves to raise the public profile of the process and to elaborate on the reasons for urgency and the many positive aspects of the Agreement. Participants emphasized in particular the opportunity to become better informed about the charter deliberations, in place of the prevailing slogans and rumours. Constitutional commission members conceded that a better climate surrounding their work would make it easier, while the external experts on transitions elsewhere emphasized the crucial importance of building a consensus and a popular constituency around the charter and of laying the groundwork in advance for managing the transition.

This report summarizes the primary issues that emerged from the two-day discussions: the significance of the charter, key constitutional issues, the importance of public information and dialogue, lessons from other transitions, and institutional challenges and transitional management. It concludes with some recommendations for possible next steps.



Photo: President of the Republic of Montenegro H.E. Mr. Milo Djukanovic, President of the Federal Republic of Yugoslavia H.E. Dr Vojislav Kostunica, Yugoslav Deputy Prime Minister H.E. Dr Mirosljub Labus, UN Resident Coordinator and UNDP Resident Representative Mr. Francis O'Donnell and UN Assistant Secretary-General and Director of the UNDP Regional Bureau for Europe and the CIS Mr. Kalman Mizsei

### **The Significance of the Belgrade Agreement**

The dominant impression from the two-day event was the seriousness with which participants addressed the subject. This included a willingness to air disagreements, discontent, and even doubts about the prospects for the charter. Speakers did not shy away from admitting the widespread pessimism that first greeted the Agreement in March or the continuing confusion about EU intentions and priorities and about the disputed character of the proposed state union. At the same time, this frankness made it possible to admit and discuss the benefits of the Agreement as well. As one external expert commented, the negotiations were finally moving the Yugoslav case from the category of a “problem” in western capitals to that of a potential *model* for a large number of seemingly intractable and frozen conflicts confronting the EU or its member states, from Cyprus to Moldova.

For all of the participants, regardless of their differences, the Belgrade Agreement and the new state union

being created is about *integration* – the last step in overturning the decade-long isolation of FR Yugoslavia, the promise of European integration, and the umbrella of a European future for a new partnership of Serbia and Montenegro. Three aspects were considered most significant.

#### **Highlights from the “Belgrade Agreement” Proceeding Points for the Restructuring of Relations Between Serbia and Montenegro**

- Agreement on Principles;
- Constitutional Charter;
- Provision on Reconsideration;
- The name of the state: Serbia and Montenegro
- Institutions of Serbia and Montenegro: the Parliament, the President, the Council of Ministers and the Court; The Army;
- Dislocation of federal institutions
- Constitutional reconstruction of the member states
- Economic sphere.

In the first instance most emphasized the international aspect. This was the beginning, according to President Kostunica, of a “new international identity” for Yugoslavia in which it is an active partner with neighbours and the EU, but also in the Third World. It reflected the new stage begun in October 2002 for both FRY and the EU in actively pursuing closer relations, Deputy Prime Minister Labus emphasized, and was necessary to gain membership of the Council of Europe and to a continuation of the stabilization and association process (SAP) begun in October 2000 with the EU. Only a new union government, to be elected at the

end of the charter process, can negotiate a Stabilization and Association Agreement (SAA). The charter will also inaugurate a “security community”<sup>4</sup> by which the use of violence to resolve political disagreements is no longer thinkable, with profound consequences for peace in the region, and will provide a mechanism to address the challenges of Kosovo and UN Security Council Resolution 1244.

Secondly, the Agreement also has immediate domestic consequences. According to Jan Willem Blankert, Counsellor of the European Commission’s Delegation in Belgrade, the new Yugoslav government had been moving faster and better on economic reform than any other transition country, but by May 2001, the reform process hit an insurmountable barrier when it was increasingly unclear for the EU, international financial institutions, foreign investors, and others who their negotiating partner was. The restructuring of their common state – economic and diplomatic *reintegration* - - into a single international partner is thus necessary to resume the reform process. UN Assistant Secretary-General Kalman Mizsei<sup>5</sup> reinforced this message, by emphasizing the less recognized but critical role of constitutional clarity to economic reform and of an effective governance framework for economic growth, including a reversal in the disastrous fall in per capita incomes since 1990 and the

continuing rise in poverty in both republics.<sup>6</sup> Moreover, according to Mizsei and Polish Secretary of State for European integration, Danuta Huebner, external anchors were major vehicles for reform in Hungary and Poland, forcing them to think strategically, giving direction for major strategic choices, and providing a helpful push for difficult changes and a light at the end of the tunnel.

Thirdly, for some, the Agreement potentially stopped the process of disintegration and the continuing uncertainty and even “constitutional chaos” it generated. It avoids the transaction costs of separation into two independent states and their harmful effect on individuals, and, conversely, protects citizens’ rights to travel freely between universities, and on vacations and family visits in Serbia and Montenegro and their rights to property regardless of current residence.

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<sup>4</sup> Karl Deutsch, *Political Community and the North Atlantic Area; international organization in the light of historical experience* (Princeton, New Jersey: Princeton University Press, 1957).

<sup>5</sup> Kalman Mizsei is also Assistant Administrator of UNDP and its Regional Director for Europe and the Commonwealth of Independent States.

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<sup>6</sup> Mizsei remarked that the current GDP per capita in FR Yugoslavia of \$1,200.00 compares to \$6,000 in Hungary, but it could reach \$5,000 in ten years if effective and efficient public administration, banking reform, and rapid privatization occur.

### Key Constitutional Issues

Nevertheless, the decision to remain together had to be based on stronger interests than EU integration, President Kostunica warned. People needed to be made aware now, in advance, Federal Deputy Prime Labus added, of major disagreements within the constitutional charter commission about the character of the state union they were designing, for example that there were currently three separate drafts within their single text. Continuing dispute about what was in fact agreed in March, he said, was not acceptable, namely, neither a new centralized state nor independent states could occur. Admitting that the Agreement had caused a governmental crisis in Montenegro and thus the necessity for new elections in October, President Djukanovic warned that it not about redefining old, joint institutions but about establishing new ones to reflect current interests. At the same time, Minister Labus, among others, volunteered that Serbia had offered the maximum it could and could not give more. Although 60 percent of the public still support union between Serbia and Montenegro, that number has been falling over the previous year. Even the priorities of the EU in facilitating the agreement seemed unclear. For example, is the only goal to recreate a single economic space, does it include some constraints on the shape of the political and governmental outcome, or is it really only about how to manage the problem of Kosovo?



*Photo: President of the Federal Republic of Yugoslavia H.E. Dr Vojislav Kostunica, Yugoslav Deputy Prime Minister H.E. Dr Miroslav Labus, UN Resident Coordinator and UNDP Resident Representative Mr. Francis O'Donnell and UN Assistant Secretary-General and Director of the UNDP Regional Bureau for Europe and the CIS Mr. Kalman Mizsei*

The overwhelming consensus at the two-day meeting was on the need for a functioning state. This is far more important and urgent than the kind of state, or label, that results. Beyond that, however, there are no clear guidelines for the constitutional drafters. The complexity of the task derives, according to Labus, from the multiple aspects of sovereignty in today's world.<sup>7</sup> The Agreement gives foreign, international sovereignty to the union, while leaving internal, domestic sovereignty to the two states. International experts stressed that there was no precedent for the political arrangement they were trying to design, except perhaps for the EU itself and the negative lessons to be drawn regarding its democratic deficit and imbalance between the executive and the parliament.

The post-socialist constitution-building process in other transition countries,

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<sup>7</sup> In this regard, Professor Woodward recommended the distinctions currently made in international relations theory between Westphalian sovereignty, international legal sovereignty, interdependence sovereignty, and domestic sovereignty; see Stephen Krasner, *Sovereignty: Organized Hypocrisy* (Princeton, New Jersey: Princeton University Press, 1999).

moreover, occurred in very different international circumstances. In 1990-91, American experience was most attractive, whereas Europe is now the single primary player, indeed is a real player, not just an advisor. The fundamentally different character of the EU than in 1990, the presence of a constitutional problem that cannot be solved (Kosovo, under international administration), and the changed international climate since September 11, 2001, with the EU's preoccupation with a common European security space, illegal immigration, organized crime, and visa regimes all mean that the logic of transition in the Yugoslav case will be fundamentally different from the rest of Eastern Europe. As Ivan Krastev explained, the simple choices in 1990-91 between amending an old constitution (buying time with "small constitutions") or writing an entirely new one and the clear sequencing of reform, starting with the economy, then the state, and only then negotiations with the EU, are not available to Serbia and Montenegro.

There are advantages, however, to being a "latecomer." Here, the constitution-building and integration processes can be one, single process. Instead of building nation-states first, the constitution drafting process can be a process of creating a *member state*, a state that wants to become a member of the EU. EU assistance, the *acquis communautaire*, and the EU consultative process can be incorporated into an ongoing constitutional process. This, in turn, will make the union attractive to both Montenegro and Kosovo and will keep the EU involved over the long term, Krastev counselled.

This also means, as Deputy Prime Minister Labus urged, that not everything has to be completed by the end of July. The steps necessary to put the EU Stabilization and Association Process back on track, as Labus demonstrated in a detailed exposition of their Action Plan for the essential economic aspects of the state union – its separate jurisdiction, mechanisms for the protection of interests, budget, property, and methods for assuming foreign debt and for dispute resolution – still leave open many issues that can be resolved later.<sup>8</sup> The future State union can still take the "small-constitution route," rather than craft a rigid constitution now that would likely collapse in three years, and then open room for real negotiations with the EU. But this will only work, Krastev warned, as long as there is a functioning state and the strategic decision is taken now to give priority in sequencing to freedom of movement within a common European police and security space.

This approach to the Belgrade Agreement could be labelled "minimalist," whereby everyone gains something as President Kostunica proposed, instead of a zero-sum outcome, as President Kostunica proposed. The virtue of the Agreement, according to many, is its simplicity. Most argued against making the charter too detailed, against the tendency toward legislative optimism (that problems are solved by passing a law), which is common to the entire region, and for

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<sup>8</sup> For example, the EU requires immediate harmonization of foreign trade and customs regimes between Serbia and Montenegro, while a common monetary system will take longer, emerging from the integration process and entrance into the Euro zone.

maximum flexibility to accommodate democratic politics and shifting interests in the new institutional setting it will create. As Susan Woodward stressed, this was the essence of democracy – “institutionalised uncertainty” according to the widely accepted definition by Adam Przeworski – where outcomes are uncertain, but the rules are clear and binding.<sup>9</sup>

Nonetheless, disagreements on basic conceptions of the state were also aired. Was the source of the union’s constitutional authority primarily the citizens, or was it the two states, Serbia and Montenegro? Should elections to the union parliament, therefore, be direct or indirect? What would be its relation to the current federation – a continuity or a revolutionary break? Given the unconstitutional method by which the Belgrade Agreement occurred, speaker of the Federal Chamber of Citizens, Dragoljub Micunovic, mused, will the Parliaments be excluded again by some politically imposed resolution of these disagreements, and if so, what will be the *legal* basis for the new state? To what extent should the interests of the republics and of citizens be protected on the basis of parity or positive discrimination? Was the state union only a temporary expedient -- a coordinating service for three years until referendums can be held -- or would it be a lasting, permanent state for issues of common interest based on a unified legal system and the principle of subsidiarity? At the very least, without agreement on their time horizon, no strategic decisions can be taken. In any case, citizens and

politicians alike do not want another three years of uncertainty and instability.

One cogent example emerged from the interaction between President Djukanovic and Rene Castro-Salazar, former Minister of Mining, Environment, and Energy in Costa Rica. The Montenegrin government wishes to add a global component to its ten-year old development policy of an ecological state, but the successful Costa Rican policy begun in 1994 was based on international negotiations, taking advantage of global markets through bilateral contracts with foreign companies, and then royalties for certifiable tradable reductions of CO2 negotiated with international firms on the basis of the Rio Protocol. In other words, leveraging global instruments such as the carbon tax credits and debt swaps for biodiversity and their use, among others, to reduce foreign debt or reassign debt service must take place at the union level. Similarly, the goals of environmental protection, eco-tourism, and gains from science and new technologies, as discussed at length by Jeffrey Sachs, the Special Adviser of the UN Secretary-General for Millennium Development Goals, in his live interview from New York during the Roundtable, are cross-border issues that require more than coordination between the two republics.

Moreover, although Montenegrin officials warned against any “creative” interpretation of the Agreement, insisting on its “strict” application, most participants at the Workshop were concerned that it appears to neglect a large number of functions which must either be retained by a new union or a substitute found (such as interstate

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<sup>9</sup> Adam Przeworski, *Democracy and the market: Political and economic reforms in Eastern Europe and Latin America* (Cambridge: Cambridge University Press, 1991), pp. 10-14.

commissions and coordinating bodies). Their list includes: the enforcement of obligations agreed to in international negotiations and treaties; human rights and the fundamental human right, that of citizenship; gender equality; consumer protection (for example, in the field of health and medicines); agricultural and veterinary regulations (including border controls and standardization); hydro-meteorology policy; environmental protection (including cross-border traffic in dangerous substances such as nuclear waste); science and development (including combined bargaining power in the new European Research Space); postal services; air traffic control; intellectual property rights; a civil service capacity to implement civilian control over the armed forces; and union-level Ombudsmen for human and minority rights and for the institutional transition from federation to union.

### **The Importance of Public Awareness, Information, and Debate**

A dominant and recurring theme throughout the two-day meeting was the vital importance of democratic legitimacy for the new union and, therefore, at a minimum, the crucial role of public debate and information to the success of the constitutional charter. This was also the overwhelmingly clear lesson of earlier transitions – according to Mizsei, the necessity to success of building consensus and a public constituency, and for Karel Dyba, Minister of the Economy of Czechoslovakia (and later the Czech Republic) from 1990 to 1996, of keeping dialogue open among all possible parties and groups to make the transition as easy as possible and to get beyond the

emotions of the moment to thinking longer term.



Photo: Yugoslav President H.E. Dr Vojislav Kostunica and Montenegrin President H.E. Milo Djukanovic

Political legitimacy can be lost very easily, Huebner stressed, and it is very difficult to get it back. As Krastev said, what politicians call transition, the people call their life. If they perceive that in place of “we the people,” the charter is “we the elites,” then the perception of elite conspiracy will lead to alienation, the risk of a populist reaction, and a threat to the very stability of the system. The threat may not be obvious at first, but once people go to the polls and ask, “who made this decision?” then any failure to have informed and engaged public opinion from the start will translate directly into votes lost.

Best practices in governance globally, UNDP demonstrates, put a premium on transparency. Citizens must at least *perceive* that they are being informed and included to keep democracy on track, while the obligation to keep them informed acts as a powerful check on leaders’ behaviour. Participation is a two-way street: leaders benefit from popular input, and citizens are more likely to comply, however unpopular the decisions may be, if they have been included in regular and organized

channels of communication. Because the contemporary world is characterized by the increasing role of contingencies, those who can adjust to unforeseen events have a comparative advantage. Regular channels of communication and interest representation facilitate such flexibility and adjustment.

Participants at the meetings themselves worried out loud about what one called the “catastrophic” lack of public information and debate about the constitutional charter, and another cited the preoccupation of the mass media with “generals” over and above the “constitution” itself. Particularly because of the strong international involvement in this process, it was crucial to try not to “oversell” the Agreement and to fight against the perception that it was imposed. Otherwise, its legitimacy could be lost even by the end of September. People’s patience is not “endless,” warned Huebner, while Deputy Prime Minister of Serbia, Zarko Korac, added that the large number of problems facing the average citizen is already creating political overload.

### **Lessons from Other Transitions**

A second theme at the meeting was the relevance, or not, of lessons gleaned from other transitions, particularly in eastern and central Europe. Ivan Krastev argued, for example, that these experiences are of limited relevance because external conditions have changed so fundamentally in the past twelve years and because true lessons take a long time to become clear – what looked like successes after five years now look like failure after ten, and the converse. Learning from others is

always an art, Huebner conceded; we do not even learn from our own mistakes, let alone those of others. The best we can achieve is to do our homework and apply the experience of others to our own, very specific conditions. Nonetheless, some general lessons of transition appear indisputable.

### *The danger of a weak state:*

Constitution drafters universally have a tendency to react to the problems of the moment, particularly as seen in the previous constitution. The 1949 German Basic Law was an “anti-Weimar constitution.” In Poland and Bulgaria in 1990-91, constitutions were “books of fears.” In Poland, the fear of political fragmentation led them to believe they needed a strong presidency to get them through the initial stages; by 1995, the new constitution went in the opposite direction. Escaping the Warsaw Pact in 1990, Bulgaria declared neutrality in its constitution, which is now creating problems in its association with NATO. The constitution also embodied their overwhelming fear of a strong repressive state and how to constrain it, but in the decade since, they have learned that a weak state can also be oppressive. Serbia and Montenegro can benefit from this knowledge and protect against the “second-generation fears” of a weak ineffective state and a privatised police state.<sup>10</sup> Similarly, more than a decade of

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<sup>10</sup> According to Jon Elster, Claus Offe, and Ulrich K. Preuss, with others, in *Institutional Design in Post-communist Societies: Rebuilding the Ship at Sea* (Cambridge: Cambridge University Press, 1998), constitutions “put together in a hurry” suffer from important “defects” (p. 78), and internal inconsistencies in constitutions can weaken institutions and make countries more vulnerable to political instability than they might otherwise have been (p. 108). Moreover, constitutions concerned with social

economic reform worldwide has demonstrated that effective states are a precondition to success and good governance is the primary means to achieve human development.<sup>11</sup>

*The threat of rapid institutional decline:*

Just as with political legitimacy, institutional decline can set in very rapidly and is not easily reversed, if planning and advance preparation for institutional transition, personnel deployment, and transitional management do not take place far in advance. Success in the implementation of peace agreements, for example, has been shown to depend far less on the content of the agreement or on international assistance than on the creation and effectiveness of interim governance arrangements set up in the immediate year or two of transition to a new government.<sup>12</sup> The natural tendency at this moment in Yugoslavia is to wait until the Charter is complete and enacted, but its implementation requires that many tasks take place first. In addition to the simple factor of time to put changes into place, tasks need to be sequenced and phased. For example,

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integration, such as the Bulgarian, were “better prepared to cope with a crisis despite their partial incoherence” than those concerned with institutional stability and individualistic conceptions of civil society, such as the Czech (p. 108).

<sup>11</sup> The UNDP’s Human Development Report for 2002, *Deepening Democracy in a Fragmented World* (Oxford: Oxford University Press, 2002), places particular emphasis on this lesson and on the growing threats to young democracies worldwide.

<sup>12</sup> Terrence Lyons, “Implementing Peace and Building Democracy: The Role of Elections,” in Stephen John Stedman, Donald Rothchild, and Elizabeth Cousens, eds., *Ending Civil Wars The Implementation of Peace Agreements* (Boulder: Lynne Rienner, 2002), pp. 283-315.

decentralization cannot succeed if an auditing system is not first in place, and it is of no use to train people if the career system at the workplace is not first in place. In setting priorities, realistic timetables and benchmarks are particularly useful.

Such advance planning is all the more important because all reforms take longer than initially thought – witness the stages, for example, of Poland’s integration into the EU. One reason is that the process of negotiating international agreements, such as with the EU, World Bank, WTO, and others, has a major influence on the process of internal restructuring. The two interact and create a political dynamic of their own.

*Beware the social consequences; people matter:*

The cases of successful transition in eastern and central Europe (whether Slovenia, Estonia, Poland, or Hungary) began with full employment. FR Yugoslavia is beginning this transition with unusually high unemployment. The social consequences will be unimaginably greater, and their implications for social justice and for political stability must be addressed. A major failure of the Polish case, Huebner reported, was that reform of the health, education, and social security systems came too late. At the same time, like Yugoslavia, its primary basis for success was the quality of its human resources. *People matter strongly.* Entering a single, and very competitive, market requires a constitution that builds the country’s competitive advantage and thus emphasizes science and education. The FRY has commendably achieved, or is on track, with most of the United

Nations' Millennium Development Goals – with the exception of poverty, which is high and rising at a rapid pace. A focus on their poverty reduction strategy and on the goals of human development and social cohesion, alongside EU accession, will make the path more sustainable.

*Enemies of transition:*

Recent literature on eastern Europe and the former Soviet Union argues that the real enemies of transition are the early winners who seek to lock in their gains by preventing further competition, thus blocking the next stage of reform.<sup>13</sup> The 36 percent of the Serbian population now living on less than US\$1 a day do not pose such a threat, in part because they do not have the institutional resources to do so. A developed civil society, particularly in local communities, proves an antidote to both problems – associations that can fight against the entrenched interests, especially through public information campaigns, and also associations that can counteract the alienation of those who are bearing the brunt of the costs by mobilizing citizens at the local level where they want to engage with neighbours, friends, and local authorities, not listen to “talking heads” on television.

*A constitution cannot be a zero-sum game:*

The tendency to ask ‘who is winning and who losing?’ in the constitution drafting process ignores the lessons of *realpolitik*. This is especially the case in

an emerging democracy, when people can vote reformers out and where those who are losing can easily head for the streets to protest. Transitional reforms, moreover, must be well-balanced, finding the right proportion among the macro and micro, investment and consumption, external and internal, transition and integration, rich and poor, and above all, between the state and the private sector, not making the mistake of the Polish experience, Huebner said, of thinking that transition means less state but rather a different kind of state.

*Define your own interests:*

Another advantage of being latecomers applies to relations with the EU. The heady optimism of the first-comers, such as Hungary, Poland, and the Czech Republic, has now been informed by experience, for example, that the interests of the EU and the applicant states are not always the same, and the rules designed for economically advanced countries in the EU are not always directly applicable to the developmental stage of the transition countries. Karl Dyba's advice, therefore, was to be “tough in negotiations,” keeping in mind the differences in developmental stages, and “define your own interests” -- advice that echoed President Kostunica's call for “political realism” and a pluralistic foreign policy. Lessons on how to define state, or national, interests, as opposed to the sum of organized special interests, are harder to find.

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<sup>13</sup> See, for example, Joel Hellman, “Winners Take All: The Politics of Partial Reform in Post communist Transitions,” *World Politics*, vol. 50, no. 2 (1998).

### **Institutional Challenges and Transitional Management**

The shift from principles to practice in the governance transition is difficult to make, however, in a situation of high uncertainty. The impressive turn-out and intense participation in however, the Workshop on the second day reflected participants' recognition that a legal framework is only the start of a transition and that the Constitutional Charter will have deep institutional consequences and require careful management of the transition. They offered a host of examples concerning problems that had already arisen because of the legal vacuum and constitutional uncertainty. At the same time, inadequate information about the Constitutional Commission's discussions and planning in current ministries, along with the understandable desire to have some influence on the Charter Commission's deliberations, were obstacles to moving full speed toward advance planning.

Several conclusions did emerge from the discussion, however. Principles were agreed, such as the need for a strategic framework, the importance of institutional coordination and communication, and the interdependencies between constitutional, institutional, and transitional issues. The complexity of the task of administrative reform and personnel re-deployment was elaborated by foreign and local experts on public administration reform, including details about functional reviews, feasibility studies, staffing and career systems, the need for interim arrangements, the crucial relation between planning and budgeting, and civil service reform. Acknowledging that the absence of procedural harmonization while the charter is being

discussed has already led to serious mistakes, many emphasized the need to agree on procedures for decision-making and communication among officials in the three governments (union, Serbian, and Montenegrin) and on their respective initiative powers and rights to consultation.

This area is particularly amenable to external assistance because of the benefit of a neutral interlocutor and the scarcity of local financial resources. The lack of attention to the interface between constitutional, administrative, and political aspects of the charter implementation was noted, with the implication that EU and other donor assistance on this matter would serve multiple goals.<sup>14</sup> Tapping into the experience of different countries across the globe, UNDP is well placed to channel best practices and experts on institutional reform and transitional management, as well as to mobilize stakeholders through the Capacity Building Fund for these tasks,<sup>15</sup> with multi-donor support.

Whatever the final shape of the state union, harmonization in the definitions and regulations of citizenship is an urgent task, not only for the many refugees, internally displaced, and persons of mixed origin without a clear status but also to safeguard freedom of movement, both for citizens of Serbia

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<sup>14</sup> The EU does fund a Policy and Legal Advice Centre (Savetodovani Centar za Ekonomska i Pravna Pitanja) in Belgrade, managed by the European Agency for Reconstruction.

<sup>15</sup> See UNDP's website [www.undp.org.yu](http://www.undp.org.yu) for further information, including on the growing multi-donor Capacity Building Fund. See also, on training opportunities, the website of UNITAR: [www.unitar.org](http://www.unitar.org).

and Montenegro and to reassure neighbours and the EU. Instruments for the defence of human rights, such as ombudsmen's offices at all three government levels and in local legislation as well as clear rights of defence for citizens at all three levels of government, were also recommended. And while issues of defence and intelligence services have not been sources of dispute in the charter sub-commission, some expressed concern that this reflects insufficient dialogue on security.

### **Recommendations for Next Steps in the Transition to State Union:**

Implicit in the Workshop discussions are many tasks that need immediate and technical follow-up. Some explicit recommendations were also made.

#### *Forward Planning*

The sober realization of the lack of forward planning for transition management recommends the establishment of a one-off Task Force to prepare, manage, and monitor the transition. Although it is not yet clear who would authorize such a body, the interests of the EU in this agreement commend its attention to the financing. The task force could be wholly technical, or include political representation as well. It should begin immediately, not waiting for the charter to be finalized and ratified, and establish realistic timetables, benchmarks, interim arrangements, and transitional mechanisms.

The institutional transition of the federal ministries to five union ministries and devolution of the rest, including

personnel downsizing and re-training, is a complex task. Prioritisation, phasing, pacing, and sequencing are crucial to prevent falling into an endless cycle of crisis management. Mere discussion of the problems brought home the dramatic gap in some institutional capacities. A number of reasons – neutrality, authority, financing, comparative experience – commend the role of external technical assistance and thus the expansion of current capacity-building funding and programmes.

Personnel downsizing and re-training alone will affect the 10,000 plus current employees in the federal administration, at a time when the ongoing transition in governance within Serbia and Montenegro and their budgetary constraints affect nearly twice as many (Serbian government employment stands at 15,600, excluding public utilities which account for another 150,000, including 7,000 who had been employed in Kosovo). Functional reviews are necessary at all three levels in advance of the new union and transfer of functions. These reviews and parallel work to put a career system in place in advance of redeployment should be assisted.

#### *Expanding public engagement and dialogue*

Individuals should be identified who will be responsible for organizational change and redeployment in existing institutions. A series of smaller technical workshops to assist their planning should also be organized.

Ideas on federal restructuring could be sought particularly from officials whose

activities are genuinely on hold until the Charter is complete.

Professionals in fields related to the institutions of the new state union (the five ministries, the Court, the parliament, and the executive), such as judges, human rights specialists, experts on the EU *acquis communautaire*, and also in fields of those competences which will need to find some new institutional form as a result of federal devolution should be engaged to draw up proposals for institutional design and Action Plans along the lines already underway among finance ministries for economic harmonization. In fact this represents an opportunity to shape these changes in line with EU legislation and norms.

Public discussion on the redefinition of security in non-military ways should also be encouraged.

The desire to foster more public awareness and information about the deliberations of the charter, the issues at dispute, and the effect on citizens' rights and living conditions was broadly expressed. Practical recommendations included: contact with editors and editorial boards of TV, radio, newspapers, and journals to expand coverage and achieve a greater appreciation of the importance of transparency and information; education of journalists on transition issues; the funding of an independent television programme on issues of transition and citizen participation; periodic discussions by authorities or independent experts about the costs and benefits of alternative choices in the charter deliberations and transition arrangements; and a TV serial to give publicity to expert proposals (such as

that for financing the new union from the Institute for European Studies in Belgrade) for aspects of the governance transition.

The question was also raised what other lessons are there from elsewhere on constitutional ratification that could be used to improve the prospects of the charter's adoption, for example, a public information campaign, but one that respected the public's clearly stated preference for honesty on costs as well as benefits. For instance, decentralization in the early stages of transition in Poland facilitated public dialogue. Reform of local government in Serbia and Montenegro provides a similar opportunity. In addition, channels of communication with non-governmental organizations (NGOs) and other elements of civil society should be nurtured for this task.

### *Social integration*

Improving the infrastructure that links the two republics should be a priority, e.g. the financing to construct a highway between Belgrade and Podgorica. Preparation for changes in the institutional protection of human rights (beginning with citizenship itself), should be facilitated with the assistance of the Council of Europe.

Participants at the Roundtable also observed that alternatives should be identified for consumer protection on food safety, health, and transport of dangerous substances that will protect freedom of movement and a common European security space, despite the reassignment of these competences to the two republics.

Lastly, there is a danger that the focus on governance transition could lead donors to forget the continuing need for residual humanitarian aid. The conditions of refugees and internally displaced persons remain acute, while the social consequences of rising energy prices and cuts in subsidies to social institutions (for example, heating for hospitals and retirement homes) will be severe next winter if donations will not be forthcoming.

In summary the preparation of the Constitutional Charter, and indeed the

entire enterprise of creating a new state union, represents a unique opportunity to: put regional security on a new footing, promote European integration, and most of all create the constitutional, institutional, and legal foundations for accelerating reforms, modernizing institutions, and providing a better future for all citizens. It is a clarion call for consensus building and decisive action and should herald a new dawn for consensus-orientated political life. The challenge to the current politicians is to forge consensus instead of division, to compromise to achieve coherence.



**Speech by Francis M. O'Donnell**  
*UN Resident Coordinator & UNDP Resident Representative*

Your Excellencies,  
Mr. President,  
Mr. Prime Minister,  
Mr. Deputy Prime Minister  
Ministers,  
Parliamentary Speakers  
Constitutional Commission Members  
Ambassadors,  
Assistant Secretaries-General,  
Eminent International Panellists,  
Ladies & Gentlemen,

In the aftermath of the early upheavals brought about by the end of the Cold War, and the surge in democratisation in transition countries, UNDP adopted a new policy in November 1996 to guide its work in the field of governance. Back in those days, governance accounted already for one-third of UNDP's work worldwide. Today it accounts for two-thirds. In New York in 1997 we organized the first UN Global Conference on Governance for Sustainable Growth and Equity. And in mid-1999, we sponsored the first World Conference on Governance in Manila in the Philippines. The extraordinary thing about these global events was the rapid convergence of values and basic principles shared by a growing majority of countries on what constitutes good governance, and how intertwined it is with preconditions for sustainable human development, just as politics and economics are the daily stuff of government. A sea-change in global attitudes towards governance has taken place in the past few years, and UNDP's Global Human Development Report this year is first and foremost about the idea

that politics is as important to successful development as economics, and good governance is the primary means to achieve human development.



Governance, in development terms, is defined as the exercise of political, economic, and administrative authority to manage a nation's affairs. It is distinct from Government, because it is about governing, which is a function beyond that core institution, which permeates the way we organize and manage society. It is the complex mechanisms, processes, relationships and institutions through which citizens and groups articulate their interests, exercise their rights and obligations, and mediate their differences. Basic principles and their application to govern a society are what good governance is all about. Its major

domains are the state, civil society, and the private sector. Good governance implies that the process of governing is conducted based on democratic principles, but that it also respects the principles of effectiveness and efficiency, i.e. that societal problems are addressed in a timely manner and with a minimum use of available resources. Good governance is therefore a combination of democratic and effective governance.

Governance represents the greatest area of need today faced by these countries and of demand requested of UNDP. By working in this field, UNDP brings its reservoir of best practice to bear, using truly global networks of institutions and expertise that tap the power of knowledge unleashed by the information revolution. More than that, as part of the United Nations system, we can harness the strengths of the system on a range of issues from human rights to the promotion of regional peace and stability, and work in broad partnerships of national and international stakeholders to strengthen democratic institutions and promote social harmony and economic prosperity.

“We the peoples” begins the Charter of the United Nations. If the UN is about a global agenda, it is most of all about shared fundamental values, and about promoting the advancement of all peoples. In the realm of governance, it is about democratic legitimacy, adherence to the Rule of Law, and respect for human rights. And in their application it is about impartiality and non-discrimination, equity and social harmony, inclusiveness and cohesion. And that implies participation and

consensus orientation, or at least the peaceful mediation of differences.

Within structures and institutions, it is about subsidiarity and empowerment, transparency and accountability, economy and sustainability. And these require fair and established legal frameworks, which are regulatory rather than controlling, enabling and facilitative. And an essential foundation for this is an effective and efficient fabric of institutional pillars including a public sector marked by its accessibility and service orientation, and the nurturing of state-civil society dialogue, and public-private partnerships. And within society, it is about tolerance of diversity, pluralism and social mobilization, freedom of association and participation, freedom and availability of information, freedom of the media, and resource efficiency.

In Europe today, these elements are already woven into the foundations of the Council of Europe, and the European Union, but in the countries in transition, including the Federal Republic of Yugoslavia, they have not yet become effective organizing principles of society. Even where laws exist, their application is weak. And too many old structures have become hollow shells, as new times require new and different capacities. Yet the application of these principles is fundamentally important to effective economic and social recovery, and progressive European integration.

In the FRY, UNDP prepared a report on Governance for Human Development in December 2000, as a contribution to the efforts of the new governments at the time to promote democratic institutional reforms, and as a background to the 1<sup>st</sup> Donors Conference for FRY held in

Brussels in December that year. We followed up that report and created a multi-donor Capacity Building Fund, which today it supporting a plethora of institutions at federal and republic levels. We also promoted application of good governance principles within the UN system approach to supporting reconciliation and recovery in southern Serbia. And the same principles underlie our more recent recommendations to government on reforming the security sector.

Why is the UNDP convening this forum and workshop? The constitutional charter commission is necessarily working intensely, behind closed doors, with staff experts and in sub-committee to prepare a document for presentation to the three parliaments of Montenegro, Serbia, and the Federal Republic under timeframe influenced by the European Union. We are genuinely pleased at the reports that their work is making headway. The fact that the work they are engaged in draws on their quality as legislators from the parliaments is solid evidence of the importance of the democratic credentials of the Constitutional Charter drafting process. The universal lesson of political and economic transitions, however, is that this work will not be fully credible without widespread acceptance in society. Eager to contribute what it can to make this adventure into the unknown successful, the UNDP has convened these meetings to provide a forum for broad-based dialogue with national leaders. We hope you will raise issues of public interest, identify practical options and their implications, and share lessons from other transition experiences.

The people of the FRY, and all its constituent nationalities including its minorities who are citizens of Serbia and Montenegro, can be rightly proud of their strong legal tradition and culture of respect for the rule of law. There is, however, a danger of what scholars call legislative optimism – the belief that everything can be solved by passing a law. International initiatives in the Balkans have been particularly guilty of this inclination as well. On the one hand, legislative optimism undervalues the role of constitutional custom and customary law. This leads to pressures for frequent constitutional amendment, which can be destabilizing, and shifts the emphasis from policy-making to coalition building in order to generate majorities that can adopt constitutional amendments. On the other hand, legislative optimism forgets that laws are not worth the paper they are written on if they are not implemented. There is no greater source of public cynicism and apathy than the failure of governments to put laws and policies into practice. One aim of organizing these meetings is to assist in this next stage of constitutional transition – the institutions and transitional mechanisms that will transform the charter into predictable actions on the part of officials and greater certainty for citizens about their future.

The actions of donors have, on occasion, generated much criticism in this country. They seem to promise much, but then there are what seem like unending delays in delivering on those promises. From the beginning of the momentous political changes in the year 2000, we at UNDP have made an effort to recognize the importance of timeliness – to be of help at the right moment, when support and

response is needed most. This roundtable is an effort to continue that role. As the constitutional charter commission moves with all due speed through its agenda, we consider it essential to a sustainable transition that public dialogue now begin on the next steps – the design of institutions and the formulation of transition mechanisms to make the charter work. In turn, we hope that you will help us identify ways that this transition will benefit from external assistance.

Many analysts say that the state union envisioned by the Belgrade Agreement will resemble the European Union. If so, you can learn much from the more than 50 years' of experience of the European Community and European Union – in particular, to find a way to avoid the problem called a “democratic deficit.” You can make the parliament real, develop an effective court of appeal for citizens and an effective court of final authority over interstate disputes so that external mediation is no longer needed, and provide channels for citizens' groups to bring issues of importance to them which are best addressed at the state union level to the attention of politicians. Fortunately for you, the time of identity politics is now over. Your deliberations are now about the quality of citizenship to be enjoyed by the citizens of Serbia and Montenegro.

Current deliberations in the constitutional charter commission, are dealing with the highest political questions – for example, between two opposing philosophical conceptions of a state, two and often three conceptions of the institutions appropriate to each state conception, and the most appropriate

method for resolving these political differences, for example, compromise now or subsequent harmonization. These political issues are for you to decide. From the United Nations, and UNDP in particular, we can also share with you a wealth of experience about best practices in good governance and human development for the next stage, when you turn to turning these principles into practice.

For example, researchers have demonstrated that initial hopes for democracy – democratisation – are not realized (democracy is not consolidated) when per capita incomes fall below a certain level. [unfortunately, \$6000 per capita]. Economic growth and its equitable distribution among the population are preconditions for sustainable democracy. At the same time, the same scholarly studies demonstrate that democracies are more likely to create such economic growth than authoritarian governments. Economic growth is best achieved in a democratic way. This applies to the state union, too – the work of the charter commission and leaders here assembled can only be strengthened, in both the short term and the long run, by building in public dialogue and opportunities for regularized political participation. Similarly, the difficult economic choices and consequences of the transition process require a constituency of support within the population, or they, too, will fail. Much of this process will necessarily be led from the top down, but it is the responsibility of political leaders to articulate the choices involved.

Today, we have assembled a panel of eminent international experts, to engage

with you in an exchange of views about the experience of other countries in central Europe at advanced stages of transition and in some cases on the verge of accession to the European Union. We hope that this discussion will raise awareness all round about the challenges, risks, pitfalls and promises of broad-based approaches to re-inventing national coherence, structures, and institutions. We have invited the national signatories of the Belgrade Agreement to share with us their perspectives and issues about progress, and also members of the governments and of the constitutional charter commission. The national signatories will each present their perspective, to be then followed by a presentation of another experience in the region, and then an open discussion. These mini-panels throughout the morning are designed to make this process as interactive as possible. The afternoon will then focus on a more exploratory discussion of constitutional and institutional concerns, as well as ways to

manage the transition to the new state union.

This Strategic Round-Table will be followed tomorrow by a smaller and more focussed workshop on the institutional challenges facing institutions in each government, with a view to identifying priorities for action in the course of the governance transition.

We wish you every success in this work, and we hope that this forum today will contribute both to the emergence of a strong consensus on the future constitution, as well as a strong partnership on how to then re-engineer the institutions that must make it work. *Time is of the essence*, in terms of future membership of the Council of Europe, the Partnership for Peace, and eventual accession to the European Union.

Thank you and may you be blessed with every success in this endeavour.

## Speech by Kalman Mizsei

*UNDP Assistant Administrator and Regional Director for Europe and CIS*

Mr. President  
Mr. Prime Minister  
Mr. President of the Republic of  
Montenegro  
Ministers  
Other Dignitaries  
Ambassadors  
Ladies and Gentlemen  
Friends

It is really a great pleasure to be hosting this meeting, which happens at a very critical period of Yugoslavia and its constituting two republics. Although, as the president said before at this meeting, almost every moment, and day and week and month in the last period and probably in the next year or two years is going to be a very critical period for Yugoslavia. After all, you are overcoming a very burdening legacy of the country as well as a delay in economic and political transition relative to your neighbours further north and further west. It is always a challenging thing to speak after my Resident Representative, Frank O'Donnell, as well as before the President of the country, so I will try to be very brief and really concentrate on a couple of strategic issues and I will also try to establish a contact with the audience although it is not going to be difficult given the number of the cameras here which shows an enormous interest in the subject of today's deliberations.

Frank said that in the development world there is a growing realisation that politics and economics are going hand in hand and they are equally important.

Nothing new, of course. His countrymen, in the 18<sup>th</sup> century, wrote a great treaty about the political economy, about the wealth of the nations, and it is really just to go back to this tradition. So, I will really concentrate on perhaps one more political issue, critical issue, and two economic issues, but again, with very, very strong political implications.



But, first of all, let me make a remark about the country, about Yugoslavia, about its development and this is a remark I made to the President before the meeting, but I would really like to repeat it to the broader audience.

I know from the experience of my own country, Hungary, and Poland, where I served as an advisor, and many other countries, that transition is a very, very tiring job and it is particularly tiring and difficult against the historical background, short-term historical background of Yugoslavia. But the outside observer, outside friend, has the luxury to look at the process more in a longer perspective, We do contribute to the development, but yet the burden, the difficulty of the everyday political and intellectual struggles is not on us, so we have the luxury to look at the process

with a little bit more of a perspective and in this perspective, I think this country is owed a big, big congratulations. Two years after a very devastating war Yugoslavia -- Serbia and Montenegro-- are on their own feet, not only on their own feet, but they have caught up in a number of areas, with the central European reformers, in a truly remarkable way. So if and when, Mr. President, Mr. Deputy Prime Minister, and your colleagues feel tired, there should be at least the consolation, that the country, in spite of all the difficulties, in spite of all the institutional, political, economic struggles, intellectual struggles is really under way to become a fully fledged emancipated member of the European family, and I am not saying it only because there are a zillion comrades in front of us and there are so many dignitaries here. This enhances a certain level of, sort of high ground speech. But I truly believe, and it is truly important to realise that the country has made a fantastic come back in the last two years. But of course it is also true about how you feel, that you are only half way and now my comments are intended to reflect on the other half. And, of course, since I want to be brief I will be very, very....I will really not go into the details of these issues.

The first point I want to make is very banal but a lot of things follow from it. And this is what obviously Frank has also mentioned and it is clear to everybody but it is still worth mentioning. The way for Yugoslavia is only one way. Through European Union and trans-Atlantic integration. Again, it is a fantastic thing to see, that there is a national consensus, in Yugoslavia, in

Serbia, in Montenegro about this simple goal.

If you look at the Central European and East European transition stories we see a great correlation. The countries, where there has been a national consensus, a strong national consensus, about this goal, have succeeded remarkably. Countries, which for geographic reasons, or the size of the country, or cultural tradition, are not on the same path, have fared much poorer. Now Yugoslavia is clearly, clearly, since its political transition started, is on the road to European integration. And the national consensus is there. It is a very precious value and I think if you can keep on track with this, this is going to be the most deciding factor in the developmental perspectives of Yugoslavia, as it has been in Central Europe and in the Baltics.

One of the reasons obviously is that, if there is a partnership between the European Union and the country, Yugoslavia, and if there is an agreement for European integration, however distant the date may be, the European anchor, through the *acquis communautaire*, and through many, many other instruments, Council of Europe membership has been mentioned, many other instruments. The European anchor helps to keep the country on track. Poland, Hungary, Czechoslovakia, which broke apart, have had their critical moments of political development in the last 12 years. But they have never, ever fallen off the track because the national consensus, about the issue, was there, and therefore the European assistance was there. And the assistance has not been through any Marshall Plan. The Central Europeans

were very disappointed that we did not get Marshall Plan type of assistance in the early nineties. But it turned out, historically, that so much more important, than money, has been the institutional assistance primarily to the process of integration into the European Union. I think if there is one very important lesson from Central Europe and the Baltics, this is the one.

Luckily Yugoslavia receives, finally, international financial support and it is important to overcome the sort of transitional recession of this year, next year, last year. Much more important in the long term, however, is the helping hand of the European, the multitude of the European institutions, starting with the European Union and starting with the *acquis communautaire*.

Another point I would like to add to this is the following and it really reflects the fact of this wonderful meeting today. European conditionality is a normal thing. When a big organisation is reaching out to a smaller one. When a bigger regional unit, reaches out to a smaller one it is just legitimate, to ask to adjust to the norms, to the values and to the rules of that organisation. And I think it is very clear, in this room as well as the political elite of Yugoslavia, of Serbia, of Montenegro. However, it is also important that the modalities of this adjustments to the European norms, rules and values are discussed publicly both for the sake of the public being informed about the issues as well as to be able to figure out the modalities, the March agreement has only achieved a broad term consensus. But there are lots of important details, vitally important details, that have to be discussed and this forum, among other platforms, offers

exactly this opportunity to discuss the modalities, of the realisation of the agreement, also reaching out to experiences of countries as Czechoslovakia, which have gone through a peaceful process of redefining itself. And by this I am not implying any further analogue, but what I am saying is that it is very important to have a public debate about the modalities of the constitutional arrangement. And I really hope that today's and tomorrow's deliberations are going to serve the goal of much more clarity of the details of this agreement.

While the European Agreement is, or the European integration is, the obvious major goal, major strategic goal of Yugoslavia, it is just too easy to lose sight of the fact that Europe means members of European Union today, but also members of the European Union tomorrow as well as other European neighbours. What I am about to say on this is that it is very important for Yugoslavia, for Serbia, for Montenegro and for the country as a whole, to have a deep reach, substantive integration with its neighbours as well. The Stability Pact has offered a good framework for trade and economic integration, lately. We all, in the world, Mr. President, have been happy to see you, with your counter parts in Bosnia-Herzegovina with Croatia, in the major news papers on the front pages. That Yugoslavia has started a free trade agreement on July 1 with Hungary. These are the very important little steps that get Yugoslavia integrated with its neighbours as well as the members of the European Union, that add to the improvement of economic and social situations in the country.

So let me turn to the economics of the current situation, and again, on the basis of my experience in the successful transition economies that are going to be members, hopefully and most probably in 2004. If one looks at the achievements of Yugoslavia, which have been great, macro economic stability, very low inflation rate, unified exchange rate, current account convertibility, a comprehensive tax reform, the start of the privatisation process, very energetic work on corruption issues in spite of the fact that not all of these issues have been solved, banking reform, enterprise restructuring are but a few headlines that illustrate the tremendous, extraordinary work that these governments in Yugoslavia have undertaken in this last period, since the democratisation started.

But still, if one looks at the numbers and the facts, institutional facts, one thing comes out strikingly: low level of foreign direct investment (FDI). And if you look at the successes of the countries of transition, the correlation, again, between foreign direct investment and success could not be clearer. Of course, my country comes first in mind, which was the leader of foreign direct investment, import, in the early nineties, but then it was followed by Poland and Estonia, Czech Republic and uniformly, foreign direct investment has been the clear, clear engine of economic success.

If we look at the determinates of FDI in Yugoslavia, one can reasonably point out the challenges ahead, the strategic challenges ahead in Yugoslavia, and let me just name them. Obviously, the reason we are here is because constitutional clarity comes first. As long as, to a reasonable detail, the constitutional situation is not clarified,

neither Serbia, nor Montenegro can hope for real robust growth in investment, and I will in a minute, put some indicative numbers of what I believe is the potential for Yugoslavia.

Banking reform has started, restructuring has started, but again, in the leading countries in transition, what you see is huge amount of foreign investment into the banking sector. Without that, the full potential of Yugoslavia, cannot be achieved either. Besides the constitutional issues, bureaucracy poses very big challenges. Post-communist bureaucracies are generally over-sized and also there is to varying degrees, significant corruption within their ranks. It is very important to address these issues and I am very happy to say that UNDP does have an important vehicle, through which it can help Yugoslavia, Serbia and Montenegro, to address its challenge of its over-sized bureaucracy. The Capacity Building Fund that we have established with the OSI and contributions from a number of donor countries.

I have been asked, I don't know exactly from whom, but I suspect from Frank, to wrap up my talk, so let me just give you a little bit of my numbers, sort of back of the envelope numbers, to the potential of Yugoslavia, if all these reforms that integrate the country into Europe safely, are realised. Yugoslavia (not counting Kosovo) per capita GDP, as uncertain the numbers as they are, is about US\$1,200 now. Kosovo numbers are even more uncertain to count. US\$1,200, in my book, more or less. Hungary has about US\$6,000, your northern neighbour. So Hungary's per capita GDP is five times higher than Yugoslavia's. Does it sound, instinctively normal? No,

it isn't. It is due to the last ten, twelve years political events. Does it sound realistic that at least Yugoslavia will catch up with Hungary to the extent that its per capita GDP will be two-thirds of Hungary in ten years time? If all the reforms are pursued with the determination they have been pursued in the last couple of years. Yes it is, it sounds even modest and of course Hungary is growing at a pace of five percent per capita. So, this two-thirds is not two-thirds of 6,000, but two-thirds of something like 8,000. So, at the very

least, one can expect to get, from Yugoslavia, if things get right, politically, institutionally, in terms of economic reforms, that Yugoslavia will be at about 5,000, or probably more, per capita GDP in ten year's time. This is not a bad prospect and it's not at all unrealistic, this is really very sober and I think if today's and tomorrow's meeting achieves some clarity about the strategic issues, then we will have contributed a little bit to this goal.

Thank you very much.

**Speech by Vojislav Kostunica**  
*President of the Federal Republic of Yugoslavia*

Excellencies,

Ladies and Gentlemen,

In the wake of the October 2000 change, the Federal Republic of Yugoslavia returned to an international community substantially different from the one the former Yugoslavs lived in. In the meantime, particularly since September 11, 2001, the international community has changed considerably – it is no longer the same one we returned to. It is clear that many relations, many policies and even the definitions of many basic political terms have changed, which means that we are going to need new, far-reaching decisions in terms of our foreign policy goals and principles. In other words, our country is to find its new international identity and identify a new foreign policy strategy pertinent to the changes within itself and its new position on the political map of the Balkans, Europe and the world.

Within the realm of possibility, our country wants to be an active and constructive actor on the international stage, primarily in the world organisation, its specialised agencies and all other organisations the international community operates through. To this end, we work on not only the restoration, but also reconstruction of our relations with the leading international actors, permanent members of the U.N. Security Council in the first place, and other states playing a decisive role in international developments. After ten years of civil wars and sanctions, our citizens long for peace, and not only

because the reforms we have initiated can be carried out thoroughly and successfully in a peaceful and stable international environment only. One of our foreign policy priorities is to rid of the burden of the past and develop bilateral political, economic and other relations with the United States, France, Great Britain, the Russian Federation and China, as well as with other members of the Group of Eight leading industrial countries that, let me remind you, were the first to help us after the democratic changes in our country.



At the same time, we are not going to neglect relations with our friends in the Third World, with whom our country has developed for decades close economic, cultural and political ties. It goes without saying that in many cases we will not be able to continue the scope and intensity of relations we have maintained in the past decades, but we will seek to uphold their quality and resume the links that have passed the test of time and advanced in the mutual interest.

Even though it will take a lot of time and effort to build a new foreign policy strategy and practice in our country, we can already say that they will rest on our

European orientation, active role in the region and on the international scene, the recantation of any use of force or threat with force, partnerships will all those with whom we share common values and interests. Our country wishes to be a good and reliable partner to its neighbours in everything that links us and brings us closer to our common goal – a return to Europe from which we have been formally, that is, institutionally absent half a century.

Today, the Federal Republic of Yugoslavia has common frontiers with its "old" and "new" neighbours – the countries that have been its neighbours since the establishment of the first Yugoslav state and the former Yugoslav republics that gained independence in the past ten years or so. A decade of civil wars that accompanied the dissolution of former Yugoslavia left a heavy inheritance to the Yugoslav peoples – tens of thousands of people were killed, millions exiled, family, economic, cultural and other ties broken, and the once united Yugoslav market divided by the borders that are difficult to cross. On the other hand, changes in most of the "old" neighbouring countries have made their borders more open than the new borders between the former Yugoslav republics are. This is precisely where the challenges and chances of our new position in the region lie – our geographic position and national interests have made us naturally less inclined to a revision of the regional borders, than to their softening, liberalisation of the flow of people and goods, and all forms of regional cooperation that would encourage the development of our countries and bring us closer to the European integrations. Our principal challenge is that these

borders appear to be porous for what they should never be – terrorism, arms and drugs.

At the beginning of this week, a tripartite summit of Bosnia and Herzegovina, Croatia and the FRY took place in Sarajevo. The summit is a genuine watershed moment in relations between the three states after the civil war and a substantial affirmation of the Helsinki principle of inviolability of state borders and the Dayton accords. The Dayton Peace Agreement ended the civil war in Bosnia caused by the breakdown of the former Yugoslavia and set a foundation not only for a political solution to relations in Bosnia, composed of two entities and three constituent peoples, but also for building new political relations in the region at large.

Respect to the obligations undertaken in Dayton is a precondition for stability in Bosnia and the region alike. It is clear that bilateral relations between the signatories have been on an upturn, but there is much yet to be done on both bilateral and multilateral planes. The return of refugees tops the list of open issues, and it requires economic, legal and safety conditions to be met. We are convinced that this concern has been directly linked with the restoration of economic ties between the signatory countries and a well-balanced development of Bosnia and Herzegovina as a whole. Under such circumstances, Bosnia and its entities could be given the role of a powerful catalyst of economic development, trade and investments in the region at large.

The struggle against organised crime and all other forms of crime and illegal trade is one of the prerequisites for industry growth and the development of

economic ties between the three countries. Our mutual wish to become EU candidate countries and join the European integration processes has created political conditions for harmonising our border, customs, investment and other regimes in the foreseeable future and in line with EU standards, thus curbing grey economy, promoting enterprise that will know of no borders and encourage foreign direct investment.

The ongoing expansion of European and Euro-Atlantic integrations will make our borders the new frontiers of the European process of integration. This carries certain risks, but also a long-term chance for South Eastern Europe to become an integral part of the process. The harmonisation of Yugoslav, Bosnian and Croatian legislation with EU regulations and Yugoslavia's signing of the Stabilisation and Association Agreement, which will hopefully take place soon, can largely eliminate the expected problems, such as those the new Schengen borders will create, but I believe that we have to make a step further. Apart from developing political relations, I am of the opinion that far more is to be invested in building economic, academic, scientific, cultural, artistic and other ties in the region, by relying on the European Union and other European organisations and institutions.

Yugoslavia's entry in the European Union is our strategic goal, and it is our wish to arrive there together with our neighbours. Even though this is unlikely to happen in the near future, it is of utmost importance for our interior and foreign policies alike. The acceptance of the European project in the transition of our society means a return to those

social and political values on which the statehood of Montenegro and Serbia has relied since their international recognition at the end of the 19<sup>th</sup> century. Just like it was a cohesive element in building post-war Europe, this project can be a cohesive force in restoring the state union of Serbia and Montenegro, because it can produce a consensus by Serbs, Montenegrins and all others living with us in the Federal Republic of Yugoslavia. Commitment to Europe reflects the political realism that we need desperately after decades of wandering. Realistically speaking, our substantial reforms in all domains will be an effective return to the one-time liberal roots, which a revolutionary system tried to cut off. This attempt has cost us more than half a century of absence from Europe.

In my expose before the Federal Parliament, I presented the Belgrade agreement, which has put an end to the perennial process of Yugoslavia's dissolution, as proceeding points for the recovery of the state, be it renamed or not. After all, the proposal for the change of the name can be interpreted symbolically as a manifestation of discontinuity, just like the Constitutional Charter will represent a break with the FRY anachronistic constitutional system, and new solutions in the organisation of the state union a break with quasi-federalist yet substantially confederal, or more importantly, dysfunctional solutions applied since the 1970s.

Under different historic circumstances and various ideological insignia, Serbia and Montenegro have built a common state several times already. What all those attempts had in common were maximalist and ideologically coloured

demands imposed upon the state union. This is the first time that a minimalist and pragmatic concept has been applied – under the given circumstances, not at all easy, and having in mind the pronounced tendencies of dissolving the state tissue and unsolved disputes from the very recent past, we have tried to arrive at a solution that would curb these negative trends and make it possible for us to capitalise on the existing rather than fabricated development potential of the state. This is the solution by which everyone wins, but no one wins it all. Most importantly, it will make it possible for both Serbia and Montenegro to win individually, and look after the interest of peace in the unstable Balkans and Europe, whose part the Balkans are. The European Union has supported the state union of Serbia and Montenegro not only for the sake of peace and stability in the region, but also to prevent the referendum virus from spreading to its members prone to separatism and not immune to terrorism. It is true that the Belgrade agreement stipulates that after three years, the member states are entitled to institute proceedings for a change of the state status, that is, withdraw from the state union, underlying that the member state using this right cannot inherit international and legal subjectivity. It is also true, however, that the issue is not opened automatically. Quite the contrary, the realistic possibility has been created for Serbia and Montenegro to integrate into a state union that has its own international and legal subjectivity. If we prove to be reasonable and able to rise above personal, party, ethnic and other particular interests, this subjectivity can be brought into a broader union of states, the European Union.

The state union is not composed of the states comprising it only, but it also represents a new, all-inclusive union of the citizens of all member states. It is also a union of citizens as individuals and a state union – it is a union of unions. On the other hand, the broader union and the narrower unions are separated, and they dispose of their own, effective prerogatives of power. Federal units participate in the structure of federal power in a significant way. This makes a federation a genuine guarantor of the unity of legal system, it has its original powers, however small in numbers they may be, and rests on the principle of subsidiarity. Finally, the state union of Serbia and Montenegro is not based on a contract, but rather a constitutional act, meaning that it is not a mere union of states. The laws passed by the parliament refer to the citizens, not the member states. There is also judicial control of constitutionality, and the member states have to harmonise their constitutions with the Constitutional Charter or promulgate new ones, again harmonised with the Charter. In other words, this is not a confederation, however abundant the elements of confederalism may be. After all, pure state forms exist only in theory.

When it comes to the field of economy, it is often forgotten that the condition of economic separation was the one we had to proceed from, and that political, or more precisely, institutional integration is easier to achieve than economic unity. After all, institutional integration must serve as a framework for economic links. The differences with which Serbia and Montenegro lived and still live must be reduced, not deepened. However ready politicians may be to disagree with their diagnosis, unfortunately based on

experience, the citizens are fully aware that both of us are in a very bad situation. Both republics rely on foreign aid, and their production rates have remained stagnant. After the painful years of destroying the state and the economic system, we are now given a chance to solidify and unify the economic space of the state union of Serbia and Montenegro, which would allow us to knock at the EU door easier and more certain about the outcome.

To my mind, however, there is a far worse alternative. A realistic danger has loomed that the next three years be a preparatory period for the final partition of the two states, instead of being used for solidifying their unity. In that case, Serbia and Montenegro alike, against their true interest and the will of Europe, from which we should not isolate ourselves either economically or politically, would be rounding up their separate economic systems. I am convinced that there is a popular will not to let this dangerous adventure happen. I have to say, however, that such ideas and concrete actions have emerged both openly and in disguise in political practice and new legislation determining further economic development. Here I think of scheduling an early vote, instead of waiting for the Constitutional Charter to be completed and then, logically, schedule a federal vote first, and then all the others, once the republican constitutions are harmonised with the Constitutional Charter. When it comes to economy, I think of decisions made by republican organs that have encroached upon the competences of the existing federal state and narrowed room for the integration of internal markets. As if someone loses no time in setting as many obstacles as possible to the

internal integration process. One should not necessarily be an economic expert to understand that winding up a separate market for goods and services, which involves separate foreign trade regimes and monetary systems, must lead to customs barriers between the two republican markets. This would inevitably slow down the flow of goods, capital and services, despite the best will in the world of economic subjects to expand their cooperation. As the consequence of the partition of two economic systems, two separate labour markets would inevitably follow. This would make it very difficult for a vast number of citizens in Serbia and Montenegro to keep their jobs, since the moment the two states separate, they will have to accept the status of "foreign" workers overnight. It is, perhaps, impossible to predict all the consequences of the separation of economic systems and the establishment of independent markets, but it is certain that many of them will be very painful, regardless of the fact that the citizens of Serbia and Montenegro do want to cooperate. Unfortunately, international circumstances still dictate sharp differences in the treatment of *domestic* and *foreign* goods, *domestic* and *foreign* services, capital or labour. The truth is that international borders have become increasingly porous for goods, services and capital (unfortunately less and less porous for the flow of labour), but we are still far from the world's single market, to which each and every country will have simple and easy access. I am confident that the economic truth about the importance of the size of the *domestic* market for development will find its way to those who have apparently failed to understand the procedure for our country's integration

into the European and world's economic community, nor have they realised Europe's interest in seeing us joining it together, instead of separated.

In a word, when I talk about the future of Yugoslavia, which, I hope soon, will become the state union of Serbia and Montenegro, I can only repeat what I have said on several occasions already – there are two overlapping interests, even if one of them is naturally stronger than the other. It is only logical that the historic and contemporary interest of Serbia and Montenegro, Serbs and Montenegrins and all other ethnic communities, in living in a single state must be stronger than the European interest in preserving the state. However, no one should underestimate the interest of Europe and the international community as a whole in establishing stability in the Balkans at long last – through integration, not separation. Anyway, the two interests together, our and European, that is, the interest of the international community, can and must be stronger than any open or disguised particularism and separatism.

Once we have mentioned the importance of peace and stability in the region, we have to put an emphasis on yet another problem, which, however destabilising its effects may be, cannot be properly and justly solved without overall regional stability. In other words, the problem of Kosovo and Metohija, whose solution has been outlined by a provision of the Resolution 1244 reaffirming the commitment of all Member States to the territorial integrity and sovereignty of the Federal Republic of Yugoslavia, can hardly be solved if instability and chaos prevail in the rest of the country. On the other hand, the circumstances in Kosovo

and Metohija are such that not only the improvement of conditions for Serbs and non-Albanians is hardly worth mentioning, but we can hardly talk about their living in Kosovo at all. It has rather been degraded to mere survival. Physical threats, the lack of freedom of movement, murders, arsons, insurmountable obstacles to return, the unresolved fates of the abducted and the missing have all become commonplace.

Provisional political institutions have been formed after three months of haggling between Albanian parties, but they can guarantee neither the freedom and safety of one-third of Serbs and non-Albanians that remained in Kosovo, nor the return of the two-thirds exiled from their homes. The problem of Kosovo and Metohija is to be viewed in a far broader context – the context of human rights and freedom and the struggle against organised crime and terrorism. The provisional institutions are neither strong enough nor immune to all challenges. What's worse, let's admit it, they are not genuinely willing to come to grips with them. Without determined and unambiguous support of the international community and its readiness to fulfil the obligations it has undertaken by the Resolution 1244, and without stability in the rest of our state too, chances are quite poor of improving the situation of human rights in Kosovo and Metohija and of ensuring a healthy legal and economic life in the area. I do want to believe that this conference and the follow-ups that have been announced are a sign of the international community's readiness to give a substantial contribution to peace and stability in the region. Therefore, it was a great pleasure and an honour for me to address you.

Speech by Susan L. Woodward  
*Professor of the City University of New York, USA*

It is a great honour to be able to follow President Kostunica. I also wish to thank the UNDP for inviting me to be a “Friend of the Transition” -- how grand that we are now at this point in this country.

As an American, living through your terrible decade in Washington, D.C., people always talked about Yugoslavia, as former US Secretary of State Warren Christopher called it, as the “problem from hell.” For twelve years, my colleagues in political science have been saying that the only way out of this Danteian circle of hell is to focus not on borders but on rights.

We are now at an extraordinary moment. For members of the Constitutional Charter Commission who are working point by point through all the difficult details, it is not easy to see the forest for the trees. But for me, this is an extraordinary moment that feels like 1789 in my country when the constitutional convention worked in a room through the hot days of summer in Philadelphia and produced a document that was so flexible that it is still valid and adaptable two hundred years later.

But it is even more extraordinary a moment for this region. For the first time in this region, negotiations rather than war are being used to solve, with law, what seems to be an intractable, interstate conflict.

The focus in public commentary and newspapers this week since I arrived has been on who gains – by that they mean

what persons, what politicians, what political parties, which state – Serbia or Montenegro. I wish to propose another way of looking at “who gains”:



(1) First, for Yugoslavia and especially for Serbia, the Belgrade Agreement and constitutional charter is the final step out of isolation. It will bring membership in the Council of Europe and entering the door to European Union integration. My colleague Kalman Mizsei has referred to what this process means for countries of eastern and central Europe – the former socialist states. But I want to say what this process meant even to countries in western Europe. The European Union for both is now “the only game in town.” For the British, in the 1970s, it was “if you can’t beat them, then join them.” Even more, for the Italians already in 1948-50, they knew it was far better to be poor *inside* the community than to be poor outside of it. And of course for the Irish and the resulting Irish miracle, membership is even clearer. As my colleague, Loukas Tsoukalis, the expert on the EU, writes – who loves Europe? The European periphery loves Europe, because they have benefited the most.

(2) Second, for citizens, business people, local authorities, this process

means reducing uncertainty – not ending uncertainty, but reducing it substantially – about the future by refusing efforts on domestic reform and away from questions of status. By viewing status questions not in a static sense of legal recognition and separate seats at an international table for a few diplomats, but as a *democratic process* – where the end cannot be known, but the methods are clear – this will provide the reassurance that people need. As my American, former Polish, political science colleague, Adam Przeworski, writes, democracy as a political system is “institutionalised uncertainty.’ In other words, as President Kostunica told us, no longer will ideas and political projects decide the outcome, for the end cannot be decided, be known, in advance, but the methods of moving must be clear and trustworthy to all participants.

Sovereignty, moreover, is not what the philosophers of national movements in the nineteenth century told us. As scholars of international relations tell us, sovereignty has many aspects – Westphalian sovereignty, international legal sovereignty, interdependent sovereignty (states exist after all in a state system and a globalise world), and only then domestic sovereignty. These days, the form of sovereignty contained in international legal recognition is the most constraining, for it brings with it the burden of responsibility to international norms and obligations, including how governments treat their citizens at home.

(3) The third gain has to do with this moment. The particular moment of this agreement is, for the units of the Federal Republic of Yugoslavia, as good as it is

going to get. This is it. Designing and adopting the constitutional charter will immediately be rewarded with goods everyone here wants – and only later will the bill of obligations come due. At the same time, the principles of the Belgrade Agreement are so general that it allows a very simple, clean, principled charter – unlike, for example, the plagued, and imposed, Dayton Agreement which my countryman, Richard Holbrooke, manoeuvred. The Belgrade Agreement allows as much room as possible for genuine democracy – for politics and the free play of interests, to shape the emerging political association.

(4) Fourth, for Serbia and Montenegro, but also therefore, for its neighbours, as President Kostunica has emphasized in his remarks, the charter will mean the creation of a security community, to use the term devised by Karl Deutsch, another American political scientist but who came from Czechoslovakia to the United States before world war II to escape the Nazis. In writing about the transatlantic community in the early days of NATO, he argued that the shared values among its members after the war meant a psychological environment – a security community – in which violence was no longer thinkable to resolve conflicts among them. What we social scientists now know is that if people in conflict, whatever the conflict, think that violence is not possible, they will not use violence. If they think violence is possible, then the probability of violence is increased exponentially. This charter will create the basis for a security community in the entire region.

(5) Finally, last but not least, this moment provides an opportunity for the people of Serbia and Montenegro to demonstrate to west Europeans that in some ways, they are capable of being more European than they. There are many cases currently throughout the world that seem to be intractable conflicts – so much so that they are often called “frozen conflicts” – Cyprus, Moldova, the Basque country in Spain, Nagorno-Karabakh, Armenia and Azerbaijan, Georgia, perhaps even Northern Ireland, to name those in Europe alone. I was in a conference on international relations in Turkey two weeks ago, and a colleague who specializes on Cyprus asked me, “do you

think that the transformation now taking place in Yugoslavia, and the negotiations between Serbia and Montenegro, can provide a model for Cyprus now?” There is an opportunity now for you here to provide a model for others – whereby people will look not to Brussels but to Belgrade and Podgorica. In this sense, there is for me a continuity in the country I loved so much and which gave me such hospitality for so many years, a continuity that has been revived by federal policies since October 5, 2000 – of taking pride in its international role and the model it can be for so many others.

Thank you.

**Speech by Miroljub Labus**  
*Deputy Prime Minister of the Federal Republic of Yugoslavia*

Thank you Mr. O'Donnell. Mr. Koštunica, Mr. Đukanović, Ladies and Gentlemen, Ministers, Your Excellencies, truly, it is an honour and pleasure for me to participate in the work of this forum.

At the very beginning, I would like to thank the organizers for giving me this opportunity. As you see, present here are high officials of the federation and of both republics, meaning that all of us together appreciate very much the role that UNDP plays here, and that we are all aware of the significance of the issue that we are addressing today.

I would like to speak about the joint approach to European integration. I will repeat what is already clear to everyone: Yugoslavia is on its way to the European Union, and our cooperation with the EU is good. Within this framework, I would like to summarize three topics: first, how it came about; second, what are the obstacles on the way to proceed; third, what we need to do to remove those obstacles.

Mr. Koštunica has said that our policy has changed significantly after 5 October 2000. That is absolutely true. However, what I wish to add to that is that the policy of the European Union to our country has changed somewhat earlier. Therefore, both of these changes have been very important. Without either of them, today we would not be in a position to say that our relations are good and that there is a good perspective for further progress. I will start with the European Union.

The European Union used to have a regional approach based on conditions. Simplified, it meant: we want you in the European Union! Change! And when you change – we are waiting for you: in five years, in one hundred years, whenever you do it, it is up to you.



That kind of approach was not good. It is a passive approach. The European Union has changed that. The results are obvious. The European Union has developed a new approach based on the process of stabilization and association, and it is an active approach in which the Union is helping us in our accession efforts. This has been a very positive change of policy. As I have said, the results are here, before us.

On the other hand, we have also changed our policy. From the policy of conflict and isolation, we have moved to a policy of cooperation with our neighbours, to the policy of resolving open issues. And truly, we are on the right track to integration into the European Union.

There is ample evidence that we are working towards renewing and improving our cooperation with our neighbours. I will here point to only two such examples: first, it is the »Zagreb

Process«. We see positive results of the »Zagreb Process«. Second is the succession. We have resolved inherited problems, which resulted from the disintegration of the country. I think that this fact will greatly contribute to further development of our relations in the future.

Of course, there are obstacles on the way to a speedy accession to the European Union. One of the principal obstacles is the constitutional uncertainty, which exists in our country. This dilemma was present for months: whether we should start with the stabilization and association process, or wait for the open constitutional issue to be resolved and then proceed with the process. We have given it a lot of thought.

As you can see, The Consultative Working Group had its first session only in July 2001. It took us nine months to decide what was better. It is better to have an active approach. If we do not have an active approach, both the European Union and us, the risks will be much greater than they are today. We have had five sessions. The last one ended a few days ago. We have spoken on four freedoms. At the same time, we have discussed human rights, the state of human rights in our country, and what needs to be done. The European Union is not just an economic union. It is a union based on the principle of human rights. We share its values and we wish to make progress in this aspect as well.

Of course, the work of the working group has not been quite smooth. According to the principles underlying its activity, after each session, the European Commission made its recommendations. Meanwhile, it was up

to us to demonstrate that we are on the way to association, by adopting some of these recommendations, and truly, the country is now closer to the standards of the European Union.

The greatest obstacle refers to the aspect in which we have made least progress: foreign trade and customs, because we have two different systems. In this aspect the European Union was very sensitive, because it was also founded as a customs union, and only afterwards it broadened its character.

We have had the problem with the Constitution., with the constitutional definition of the country. We have initiated our discussions at the end of last year. It seemed that it was impossible to come to an understanding. It was natural for a referendum to be held in Montenegro.

This meant that the formula that the European Union adopted at that time:«Democratic Montenegro in a democratic Yugoslavia«, was now to be amended to: »Democratic Montenegro in a democratic Yugoslavia, through a democratic referendum«. However, there was no agreement on the qualified majority. The referendum was not held. My personal impression, which may not be correct, is that nobody actually wanted this referendum.

As far as the European Union is concerned, it thought that the referendum was a problematic instrument, and that it may have negative implications on other regions. It was more prone to supporting renewal of dialogue and offering its good services in such a process. We have accepted it. We accepted it, although we thought that

the referendum was maybe a better way. We accepted it because we wanted a partnership with the European Union, because we care for our interests, but simultaneously we have the interests of the region and the interests of the European Union in mind as well.

However, it must also be noted that when we began the discussions, the European Union did not make and conditions or recommendations as to the results of these talks. It was up to us.

Internally, among us, as an understood rule, there was a certain framework for these talks. One of them was that the sovereignty of the states should be respected to the degree in which it has been achieved at that moment, at the moment when the talks commenced, which de facto existed in practice. You may recall that this was expressed in one sentence: to respect the achieved level of economic and political reforms in Montenegro. It was an expression of one principle to be respected during these talks.

There was, however, another principle on the table, which was that the country should maintain its international subjectivity and that the joint state should be maintained. We have all agreed that the citizens in Montenegro will at some time have the right to decide whether they want to live in this state union or not, but that now was not the time for such a decision and that it should be postponed. It would have been better if it had been postponed for a longer period, but it was agreed to postpone it by three years.

Another principle of this general understanding was that our work on the

constitutional issue should not slow down the process of the country's accession to the European Union. We have made an agreement. Some are happy with it, some are not. That is now quite a different matter. What is absolutely true is that this agreement has stopped the process of the disintegration of the country. We all agree that this agreement did not offer a simple solution. The solution is complex, but it is also feasible. This solution means that there is one country with two separate markets, which will be harmonized over the process of accession to the European Union.

After our talks certain issues have remained open, we have not resolved all of them. Today, these issues are a matter of different interpretation, and I think, rightly so. However, there are also different interpretations of issues on which we have already agreed, and this I think is not to our credit.

Basically, there are two extremes, if I may speak of them: one interpretation would want a review of the agreement in the sense of establishing a much more centralized state than we have agreed, and the other would like to see two completely separate states. Both of these interpretations are a violation of the starting principles of the Belgrade Agreement.

Why do I believe that this solution is complicated?

Several years ago Yugoslavia as a country, as a whole, if I may so say, had internal and external sovereignty. Susan Woodward spoke of this sovereignty. What do we have as a solution now?

Internal sovereignty belongs to the member states; External sovereignty belongs to the state union. By the nature of things, such a solution is not simple. But such a solution can be put into practice. The only way for this solution to function is that both republics, member states, by expressing their sovereignty during the writing of the constitutional charter, transfer a part of its competences to the state union. Whatever they do not transfer to joint institutions, remains as a competence of the member states.

The state union, with its institutions, must have adequate competences: it must have its budget, it must have its property, and it must have the capacity to borrow funds from abroad. Here I am speaking of economic aspects only, and I emphasize these three, because there is an agreement between the Governments of Serbia and Montenegro that none of these three elements exists.

I see this as a violation of the Belgrade Agreement and contrary to the Belgrade Agreement, and I see that this cannot lead to a joint state.

Competences are one matter. I wish to insist on them; there is also another matter of protective mechanisms whereby these competences are not jeopardized by central institutions.

These protective mechanisms are in place. With respect to property, the protective mechanism is the Council of Ministers established on a parity basis: three ministers from Serbia, three ministers from Montenegro. Do we need a stronger protection mechanism?

The budget has the “cotization – participation fee” protection mechanism. Each republic assembly decides about its participation in the joint budget. Is there a greater guarantee? No need for it.

With respect to debts, we should maintain the mechanism that is presently in practice: the state union (the joint state) is not getting indebted unless it has a counter-guarantee of the republic to which such debt refers. With a different solution, the World Bank would react immediately. They would say: there is no sense in a country being a member of World Bank, since you can no longer maintain normal financial relations with us. It is the same with all other financial institutions.

The state, the joint state, must therefore have adequate competences and must have protection mechanisms so that the government and the joint institutions work in the interest of both member states. There is something else that it must have. This picture is not quite clear, but we agreed on it when we discussed the Action Plan.

It must have a mechanism for the resolution of disputes. Of course, in life there are disputes. In a state, a joint state, of course there are disputes. But the question is, do we set mechanisms to resolve such disputes or we do not? I think that we have agreed on something that the Constitutional Commission should use as an important recommendation.

For instance, we have the European Union saying, »Your sugar certificates are false! This is not export, this is re-export!« This complaint goes to the competent body – the Federal Ministry

for Foreign Economic Relations. This Ministry must have its customs department or division, and inspectors who will rule whether this is so or not. Against such a decision one or the other customs administration may submit an appeal. In cases of appeal, there is a joint parity board at the level of deputy ministers of the two member states, which will make a decision. Meaning that here we have a parity-based decision making, which means that it is possible that the board will not come up with a decision. After this, there is a court of the state union and it must, finally, make a decision. A similar mechanism is necessary for the state to function and for the central institutions to be efficient.

What were my and our expectations of Europe?

I will be very open. After the Belgrade Agreement, many in the country, but also many in Europe, were not happy. There were different reactions. What we expected of Europe was to speak with one voice. We do know what a common policy is! We expected Europe to confirm that the Constitutional Charter, which we are presently negotiating, will not stop the process of stabilization and association, and we expected the European Commission to accept that harmonization is a process, but not a condition to proceed with talks on accession. We have received such support. Commissioner Chris Patten visited Belgrade and clearly confirmed the positive reply of Europe, and its expectations.

At the same time, we have received from the Venice Commission a very fair draft of the Constitutional Charter, prepared by first-class experts in Europe. The Action Plan for harmonization of a part

of our market was adopted at the last session of the Consultative Working Group. So, we have two documents before us. One is the Action Plan. It had to work out a credible harmonization process. We have agreed that this process will last for three years in the field of free exchange of goods. It refers primarily to foreign trade and customs.

The Action Plan does not refer to the monetary field, because harmonization in this field will take longer. When our country becomes a member of the European Union, it will surely become a member of Euro zone, and it will use the Euro. At the moment, we do not fulfil the requirements for this. Therefore, there are differences in the monetary system.

With respect to the Constitutional Charter, it is quite democratic and natural that a parliamentary commission, made up of representatives of all three parliaments, writes the Constitutional Charter. This Commission is working on it. However, we must know that there is progress made, but there are also problems in the work of this Commission.

Reading yesterday all the documents that were available at that time, it was my impression that there are currently at least three draft documents in one text, or maybe, if I want to be optimistic, that there are two drafts of the same text.

As my friend Sloba Gavrilović (member of the Constitutional Commission and delegate in the Council of Citizens of the Federal Assembly) has said they have agreed on everything except on the character of the state union, its institutions and elections.

The character of the state is a key issue. But the character of the state was determined in the Belgrade Agreement. It is not a union of states; it is a state union. It is clear. There is no dilemma there. With respect to institutions, the institutions have also been defined in the Belgrade Agreement. What remains is the issue of their competences. The third issue, which is really open, is the issue of elections and it should be resolved in an adequate democratic manner.

I would not like to be taken wrongly. I have an impression that here we have tactical games and buying time. There is no ground for different interpretations of the Belgrade Agreement. If we wish to proceed with the stabilization and association process we must have the constitutional charter, we must have

elections soon and a new council of ministers, because only a new government may proceed with negotiations with the European Union. The perspectives are good. These negotiations may end in June next year. That would be a significant progress. Therefore, there is no time to play political tactical games. I believe that we have very serious state business to do.

I appeal on all participants to understand this reality and to refrain from re-interpretation of the Belgrade Agreement. From the point of view of the citizens of Serbia, Serbia has given its maximum of concessions, and can give no more.

Thank you very much.

**Speech by Danuta Huebner**  
*Minister for EU Integration, Poland*

Mr. President, Excellencies, Ladies and Gentlemen.

First of all, let me thank you very much for this invitation; it always gives me a tremendous pleasure to come back to Belgrade, which I first visited 30 years ago and then again I was also here last year. And from what I have heard from my friends this morning my understanding is that compared to the last year you have moved so fast on economic reforms that I just want to congratulate you and wish you all the best for the future.

Indeed we are talking about something very important, I think, for all of us in Europe; for you in Yugoslavia, for us in Poland which is both transition and integration processes. And I think we are in fact talking about a huge historical distance, that people are going, or must go, through. We are talking about a very long path to democracy, to market economy but we are also talking about finding, by ourselves, a sustainable place in the international community. We are talking also about a path we are going through, which is a socially painful way. We are talking also about a way, which is accompanied by tremendous dilemmas, choices that both people and politicians must take all the time. And we are talking also about a process, which is linked, to a lot of emotions, which matters strongly in this process. And I think that we must also remember we are going through this process surrounded by a world which is changing very fast, which in fact is sprinting.

We are going through this process of deep, grand change, also surrounded by a changing Europe which is aiming at completion of the European Project and I think we should remember that we are talking not about the process, which is important for us today and tomorrow, but which will shape our future and the future of the people for decades to come.



And of course, learning from others is always important and I am too long in this business, if I may say it this way, to know that you don't learn, even from your own mistakes, not to mention somebody else's mistakes, so I know how difficult it is and I think that learning from others is really an art of using best what others did or failed to do. But at the end of the day, what matters is that our homework is done well. You must remember that we used the experience of others but we use it in a very specific, our own environment: social, political and economic. That's why it is not, probably that easy to, for me also, to share the experience of the lessons that we have learned in Poland.

I will try to do it because I think that it is also my duty just to share with you things that are important for us here in

Europe. And I guess that we must. Lesson number one that I would like to share with you, which we have learned in Poland over the last decade, is that transitional reforms must be indeed well balanced. In fact we are talking about the right proportions between the macro and the micro, between investment and consumption, between the external and internal dimension and here obviously transition and integration with European Union are processes which are strongly intertwined.

We are talking also about the right proportion between the attention paid to the rich who generate big sums and to the poor who whose capacity to bear the costs of change tend to be limited. But also we are talking about the right proportion between the state and the private sector and I think that we have made a lot of mistakes also in my home country, understanding that the transition means simply less state, while in fact it means, a different state. Less but also it is about a different state.

The second lesson I would like to share with you is how much indeed time matters in this process. Today of course, we tend to think that since time had been invented in fact to differentiate between what must be done today and tomorrow, we should think always about the processes, political social economic, in terms of sequences. But in fact, our experience in Poland was that we did not have time to sequence because we simply had to do everything at the same time because there is no time, because the others go faster. The world runs because, if not, the opportunities escape and also, as I said, because people are not endlessly patient so we must remember that time matters in this sense,

that there is simply limited time. But also we must think about time in the sense that in fact we should be long-term thinkers when it comes to transition and accession to the European Union. And we must also think that we have the opportunity to take advantage of the fact that we are latecomers and that there is a lot of leap-frogging that we can do.

But first of all I think that time matters because these processes we are talking about, and what Prime Minister Labus was also talking about, is the process to stand to the institutional change and we know how much time it takes, not only to build the institutions, but what is most important, to learn institutions. And also, I think, time matters very much when it comes to the legal framework we must create.

We felt that in the beginning of 1990s, or the end of 1980s, the pressure of this legal framework so important for our change that we adopted, immediately, in 1992 the so-called small constitutions. We have taken the approach that we need constitutions immediately and that this could be only a small constitution which was taking care or regulating issues of legislative and executive authority. And also, what was important for us, the local governance issues. It gave us also a wide range of competencies to the president of the country, there was a strong popular sentiment at that time, that we need a strong presidency, because the political life, the political spectrum structures, were so diversified, we had so many small parties, that we needed a strong centre in political life to get us through this initial stage of transition.

But then, in 1995, we completed the work on the real full constitution, which was then adopted in 1997 and at that time we thought also that we would need a constitution that would allow us to join the European Union and this is an extremely important factor because we all know how difficult it is to reopen the constitution just for the EU entry so that is why we thought about that in advance. However, if I may be open and sincere, we are having a huge debate, mostly amongst the lawyers, that there really is no need to amend the constitution because of EU accession. Hopefully, we will not have to do it. But the real issue, with regard to the legal framework, in Poland, and this is extremely important for the preparation for the EU accession, has been always not so much the adoption of the law but the implementation and enforcement process, which is much more difficult and which also requires a lot of institution building to take place, than just the preparation of the legal framework.

The third lesson, I think, we have learnt, is how important is the external anchor and indeed it mattered strongly in our case; it helped us in maintaining the right direction. We have several, in fact, external anchors; that was the negotiation of WTO entry, we had the negotiations for the OECD accession, we had the most important at that time and then entry into force in 1994 in spring of the Europe, which is an association agreement then we of course had the negotiations of the accession to the European Union. And these external anchors have been a major vehicle for the changes in our economic, social and political life. I think they were very often a reference point; they were giving the

direction to major strategic choices because they forced us to think in the long term. They also were a very important mobilising factor for many changes that we had to go through. They were also a light in the tunnel that we needed from time to time, in difficult moments and very often, well, sometimes, they were often a scapegoat for us – if we had to do something hard some politicians could use this external anchor as an argument, which I think is not useful. It does not pay to use it in this way.

And that is of course linked to the conditionality and I would like to repeat what Kalman Mizsei said, conditionalities, it is not popular to say that, but you can make these extremely useful. You can make it extremely useful if you don't take it as something that is imposed but if one manages to develop the ownership of the conditionality that is also an extremely useful instrument.

The lesson number 4 that I would like to share with you which in fact we are still learning, we are not too good on this, I must say, is that people matter strongly for all those changes and when one thinks about Poland back in 1989-1990, we were a horrible candidate for the transition. We had extremely bad initial conditions; we were very indebted; we had very bad production structures that required massive restructuring, which we are still going through. We had also rather a bad resource allocation; FDI was very slow and it matters very much in the beginning. Practically until 1994 it was very slow and now we have more than 70 billion dollars of accumulated FDI, but that started much later than in the case of Hungary and the Czech Republic, in 1995. What we had, which

is what I think Yugoslavia has, is excellent people and also peoples' attitude to change which was needed and without that we would not have made what we have achieved. Fortunately, and this is also your luck, if I may so, we did not manage to develop in the past, the feeling of ownership in the system we used to have. Because we always thought that as in post system, so for us, we are not proud of it so we could get rid of that without much problems and I think that that is also very important. We also have, I remember the meetings we had here in Belgrade a year ago, we also had in Poland a developed civil society, relatively developed of course, but we had it. This plus the decentralisation reform in 1990 gave us a good start and that was extremely important this attitude of the people and it was for us crucial in fact, to have in 1990, the first reform of the decentralisation of the state. It was when we created the first level of central government, the commune level. Then we waited 8 years to continue and to complete the reform, which was probably one of the failures or mistakes that we have done and in 1998 we have completed the reform, which is also extremely important, this decentralisation of the state creating the region and lower levels of the self-government for the EU and the structural funds to create and absorb the mechanisms we needed those structures. We could have done that earlier, but today I think that the most important reform for us was this one of the 1990 that started the decentralisation of the state and strengthen the civil society. I am thinking about failures at this stage, I also do think that we thought too late about the reform about the health system, about the education system, the social security system, but we eventually

did it but I think we could have done it earlier.

When talking about people, I think that they matter so much in the whole process. We have learnt that it is important to develop, as soon as possible, a mechanism for a permanent, serious dialogue with the public. Good channels of communication with the people and then we discovered we had to care for it constantly and permanently and without public support we would not for example have the constitution, because we had to have a referendum on the constitution and the president sent to every citizen, to every family, of Poland a text of the constitution asking them to come to the referendum and vote for the good future of Poland and we needed this support from the public otherwise we would not have achieved the constitution in 1995 and it was clear to us, as years passed by, that at the end of the day, indeed people who decide directly or indirectly upon how far we can go with reforms, they always can go out in the streets, so it is always better to convince them, to talk to them and that was, in the case of Poland, extremely important because of our history. We also learnt in this regard, that you can use the reputation and legitimacy, very easy and then it is extremely heavy, difficult to get it back.

We are of course going through a major communication exercise with regard to the European Union because we will have also the referendum next year on our accession to the European Union and that is why the information campaign, the dialogue, all kinds of national for a which allow us to take into the public the debate, the most important issues linked to the European integration. This is a

huge challenge for good communication with the people, in the case of Poland in the context of our accession.

Let me just, before I conclude say about the failure, which I see it as today, a lesson that I think we, I don't know if we could have done it differently, but as I see it today, it was one of the weakest point in our transition process and in the effectiveness and efficiency in this process, which was a failure to reform at the beginning the public finance system and fiscal policy systems. These reforms are definitely essential but of course, we all know, all countries that go through such a grand change in transition, and also then, the preparation to the European Union, all those states have problems with the deficits when they embark on those reforms. It's for clear reasons in fact, because these reforms are extremely deep and all reforms of that scale and scope they also mean costs and not only costs to the people, and that I already addressed, but also costs to the budget on the one hand. On the other hand, there has been in Poland a serious decrease in tax revenues because of profits of the enterprises which went down or apparently went down. We also had a new tax system, we also had a grey economy exactly because of the tax system but not only, so on the revenue side there is also a natural tendency to have problems and as a result we have developed the syndrome of poor state budgets on one hand. On the other we were, from mid 1990s in fact obsessed with master criteria having the deficit as low as possible and hopefully the surplus in the budget, so as a result of the decade of tremendous important changes was also a decade of high pressure on the budget, which creates all sorts of

problems and very difficult situations for the society and for the government.

I do not know if it is feasible to have this reform as soon as possible in any transition countries but I think this is the major difficulty because that has an impact on the speed of reforms that has tremendous impact on the quality of the reforms if we have this kind of dilemma. Because of that exactly, we entered in Poland into a kind of trap because being obliged to maintain macroeconomic stability on the one hand and then having this budget problems on the other hand, we have created such a situation which is a long term situation of a production gap between the potential and the real GDP and based, in fact on the assumptions we always had in the policy, first we must restructure enterprises and then give them cheap credit. That put us in a very bad situation, which in fact continues to a certain extent.

Just to conclude, the last lesson I would like to share with you. When one thinks of the institutional change in the course of transition and in the course of getting ready for entering the single market which is quite a competitive market, based on all the norms and standards that Deputy Prime Minister Labus mentioned, then one must be aware that the process of building a constitution also must build the competitive advantage of the country and that is why, since this competitive advantage is clearly a man-made process and phenomenon, we must remember about it when we build the institutions, when we create the environment for the enterprises, because at the end of the day these are the entrepreneurs who really build the competitive advantage of the

country. But we must also remember that there are issues like education and science which are in fact in the long term, are the only that matter so strongly for the good position of a country, of an

economy in Europe and in the world as well.

Thank you very much for your attention.

Speech by Žarko Korać  
*Deputy Prime Minister of The Republic of Serbia*

Ladies and Gentlemen,  
Your Excellencies,

I wish to apologize on behalf of the Prime Minister of the Republic of Serbia who, because of his engagements this morning, could not attend this gathering. He sends you his regards.

I will try, much as it is possible in the short time available, to summarize the present position of Serbia in respect to the issue discussed. I will also try, which is much more difficult, to speak slowly, for the sake of interpreters!

As you know, Serbia is often described as a country of late transition. It has, at this moment, entered the second year of changes. It is possible already at this time to recognize the advantages, and the successes in this (second) year of transition. But it is very clear what the problems that we are facing are.

The changes that have taken place in Serbia are of course a part of our efforts to join European integrations. But, the much broader framework that exists could be summarized as follows:

We are making full efforts to modernize our country and to undertake economic and social reforms, which will make Serbia compatible with its environment, namely the European environment, in the third millennium, in the 21<sup>st</sup> century that is ahead of us.

This is all taking place under very specific conditions of our situation,

which was very difficult over the past ten years.

I will try very briefly to identify what these specific conditions were.

First of all, we have inherited a very outdated economy, which, over the past ten years, due to the war and sanctions, and partly due to completely wrong economic policy, has had no actual investments, no new technologies. So practically it was an economy without capital investments and without technology transfers.



Also, in contrast to other east European countries, which at least officially had high employment rates, we have entered transition with very high unemployment.

Our principal problem, of course, is enormous economic backwardness and poverty. I would like to remind you that we, just like other countries in the neighbourhood, in the Balkans, have a national product of less than US\$2,000 per capita, meaning that we have a GNP which is half of what we had in 1989. Analyses indicate, at least official analyses say so, that in Serbia today 36 % of its population have less than US\$1 per capita. Practically, we could say that the citizens of Serbia live under the

poverty line. These are the conditions under which we are entering transition. At the same time, in Serbia today there are almost 700,000 refugees and displaced persons, which is a very significant problem for our society, both from the economic, social, and even medical, psychological, political and any other perspective. It should especially be noted that a certain number of them, especially those who want to return to their homes, have great difficulties in returning to the countries of their origin, from which they have been expelled or displaced.

We are also faced with the legacy of the war, and the people of the previous regime who are responsible for this are trying to avoid taking responsibility. Of course, it is an open question for us, both in the local judiciary and at the level of our country's cooperation with The Hague tribunal, to have a legal and legitimate process that will answer the issue of responsibility and guilt.

We are determined to continue with reforms in Serbia. I can illustrate this with just a few examples:

First, at this moment, the Government of the Republic of Serbia has sent to the Republic Assembly over 30 laws, many of which are important system laws. It means that this is a very comprehensive legislative activity, which is aimed at completely changing the legal framework of our country.

We are also trying to create a legal framework, which will attract investment in the privatisation process. You yourselves realize that this auction and tender based privatisation is a somewhat slower process, slower than

the processes that were used in other east European countries. In our opinion, it provides better strategic partners and leads to a more certain result. A certain nervousness, as we like to call it locally, due to the slow privatisation, will get better evaluations when the process is finalized, and this process, as you know, has a time frame of five years, by when we will have valid strategic partners and by which time we will manage to attract such partners that will guarantee good future to the privatised companies. Also, we have opened up the issue of human rights.

You are aware of what it means today to respect human rights, in contrast to the period in which human rights over the last 10 or 12 years were violated in our country in the worst possible way, but also in the nearest neighbourhood, so what a society of justice and equality means, and also what it means for a society to fully respect human rights.

Finally, with respect to the legacy of the past and our geo-strategic position, we are facing crime, sometimes also organized crime and special forms of crime. Recently, we have started with increasing intensity to fight this great evil. As you know, a law has been adopted aimed at a more efficient struggle against crime.

We have also initiated negotiations with Montenegro to rearrange our relations. We have from the very outset stated that we will accept such a solution, which has the support of the majority of citizens of Serbia and the majority of citizens of Montenegro. But, at the same time, Serbia has expressed a clear position that the result of such negotiations must be a solution, which

will be operative. Because sometimes people make agreements that afterwards cannot be put into practice.

In other words, as Federal Deputy Prime Minister, Mr. Labus said before me, it is necessary to identify a solution, which will satisfy the aspirations of the majority of citizens of both republics, but which will at the same time make it possible for both Serbia and Montenegro to function as a state union of two states.

In this way, we are practically attempting to redefine our relations in a way that will enable Serbia and Montenegro to associate with Europe, and which is a very interesting attempt at creating a relationship between two states that will be compatible with what European integrations requires. I believe that this is, in the broadest sense, the framework under which the negotiations are done.

We are, of course, also interested in the relationships within the region. I must say that we pay a lot of attention to that, not only as some infrastructure project, but we are very keen also on political and other relations within the region.

We are quite certain that it is an illusion to believe, as some countries in the region do, that they will have separate relations with the European Union, irrespective of such relations of other countries. Essentially, our development implies a much more intensive relationship with our neighbours.

I will mention a recent example, which illustrates our readiness for both formal and informal development of such relations.

Our Minister of Finance, Mr. Božidar Delić, recently visited Priština, at a gathering of all finance ministers of the region. It was more of an informal meeting, but very significant. The meeting discussed smuggling of cigarettes, smuggling in general, and had very positive results, because we are facing many problems that can not be solved in one country alone, individually, but require regional cooperation.

We regret that within the region there are still in effect visa regimes. We regret that the Federal Republic of Yugoslavia and the Republic of Albania still do not have diplomatic relations at ambassador level, but only at the level of Charge d’Affairs. We have presented an initiative for these relations (Yugoslavia – Albania) to be raised to the level of ambassadors. Practically, these are the only relations that we have with the countries in the region that are below ambassador level. Albania has answered affirmatively, but this has not been implemented as yet.

Generally speaking we think that we are proceeding well in terms of regional cooperation, more rapidly with some countries, and more slowly with others. Generally, it is proceeding in a positive direction.

I would like to remind you that the present day Balkans is in completely new historical circumstances. Unfortunately, stereotypes about the Balkans live longer than reality. All the regimes in the Balkans have resulted from democratic elections, absolutely all of them. All these regimes have one objective only: to modernize their societies and to access European

integration. This is a unique case in the history of the Balkans.

Thirdly, great world powers are no longer present in the sense of rivalry in the Balkans. The last such attempt was at the beginning of the war with NATO, when Milošević attempted to involve the great powers and bring them in a position of rivalry. Therefore, there is no longer a conflict of interests of the great powers, which means that possible conflicts in the Balkans may be only short-term, other and serious conflicts are no longer possible, because from the historic point of view they were sustained in the past only by the rivalries of the great powers.

In other words, I am optimistic. I believe that Serbia will continue its regional cooperation. I believe that this will have a positive effect on our internal development, development within the country itself.

Finally, within the Stability Pact, new forms of cooperation are being created all the time. As you know, the Stability Pact is always facing new challenges. It is possible, at least we expect it to be, that this Pact, which is relatively flexible and adjustable to the situation, will create opportunities for the European Union to develop more complex mechanisms for its relations with the countries in the region.

As we all know, it cannot be only the question of signing the Stabilization and Association Agreement, or a decision on the fact that you are one of the countries in line for the negotiations for membership, but it is obvious that more complex mechanisms will be needed

which will take into account the specific features of individual countries.

And finally, the Government of the Republic of Serbia, despite the grave difficulties that it is facing, some of which I have mentioned here, although these difficulties are often underestimated by those who view us from the outside, and sometimes even more by those who view us from the inside.

Our struggle against poverty, our struggle with the oppressive legacy of the past ten years, our struggle with the inherent conservatism of Balkan societies, will proceed without stopping, without dallying, without pessimism. I would like to assure you that we will succeed in this struggle. We will undertake these initial, decisive steps in the changes in Serbia.

Here we have heard a warning, as a *momento mori*, that the first reform governments often go. I will be very satisfied, as my friends in the Government of the Republic of Serbia, that we should go after we have been sure that we have done everything possible for the well-being of the citizens of Serbia and for the well-being of the state of Serbia and that we have undertaken all the necessary changes that will be the basis for those more fortunate than we are, who will have this basis to continue with the changes.

Thank you very much.

Speech by Ivan Krastev  
*Director of the Centre for Liberal Studies, Sofia*

Ladies and Gentlemen, you know this famous story of the French journalist, going to interview one of the famous leaders of the Communist party in 1989, asking the question of how they were going to estimate the impact of the French Revolution and the answer was “it is too early to say”. So, if it was too early to estimate the impact of the French Revolution after 200 years, you can imagine that it is not going to be any easier for me to try to summarise the Bulgarian constitution experience.

I am saying this because we are starting with the assumption that now, 10 years after transition, we know what is a success and what is a failure. But, believe me, after 5 years we believed that certain things were a success but it turned out that they were a failure. There may be certain things that we have been evaluating as a failure that appear to be one of the most stable things we have got, so from this point of you, I am not going to preach about successes and failures and basically, in the case of Bulgaria, once we have been thought of as a moderate success and the others as a moderate failure.

Basically I will try to make five points that, in my view, have something to do with the specifics of the constitution-making process in the post-Communist period. And my first idea is that basically the constitution is a book of fears. If you see the constitution making process it is really the fears of the public and the fears of the elite that are embodied in the constitution. When in 1949 the basic law in Germany had been

introduced -- the constitution of the Federal Republic, reading it Karl Schmidt simply said, but basically this is the anti-constitutional Weimar. And to some extent it is true. I am saying this is true because, as you know Bulgaria was the first post-Communist country to adopt the new constitution, we adopted the new constitution on July 12 1991 and if you read this constitution now, you can see that the basic fear was that of a strong repressive state; strong repressive executive power.



As a result, everything that has been done under this constitution was basically to constrain a strong executive and to try not to allow, the re-emergence of the repressive regime. This is important as what we have discovered after 10 years is that not only that a strong state can be repressive, but a rich state can also be repressive and a non-functional state can be repressive. The fact that the police are not beating you is not going to help you if a mob is and there are no police to protect you. I am saying this, because my basic idea is that in a certain way being a late-comer in the constitution process Serbia and Montenegro have many and important advantages. The disadvantage is that you already know and that you already have

those with a second generation of fear. Not only the fears of the Communist regimes, but also the fears of the ineffective post-Communist regimes. Basically, not only the fear of a police state, but also of a privatised police state; of a criminal state that has appeared in many places. So if this is the case, I do believe that the logic of the constitution-making process, in this country or in these countries, is going to be slightly different than the ones we had, especially in Bulgaria where the transition, the constitution, has been made in the very early stages of transition. I do believe from this point of view the political experience is different because Poland allowed itself also to have a concrete political experience after it was constitutionalised. This was not the Bulgarian experience. We had a constitution before having democratic politics. It played an important role, but also it has its negative side.

My second idea is that, basically in 1990-1991 we very well knew what we wanted to escape from but we were not very sure where we were heading. Because the European option was totally different in 1990-1991 than it is now. If this is the case, I do believe that now, the very essence of transition has changed. Now transition is much more a state-building process, but you are not building a nation state, but basically you are building a member state. And this in a state building process that is not only going on in Eastern Europe but also to a certain extent Western Europe. From this point of view I do believe that you are benefiting very much because you have a constitution making process here in Yugoslavia but also you have a constitution making process in the European Union itself. And I do believe

that one of the things that can be done is that maybe it is going to be very profitable for Yugoslavia to insist on being an observer in the European convention. So try to have a convergence of the constitution making processes because maybe you don't know in what country you are going to wake up tomorrow but I am not sure if the European Union knows in what kind of Union they are going to wake up in tomorrow. So from this point of view, this start of converging constitutional processes are very important because it this is true, and this is my claim, on the second point, is that you need a constitution which is going to make the accession to the European Union easier. Basically a constitution in which you are constituting a member state before being a member. I am saying this because the Bulgarian experience was different even just in one area, the area of security because we have been coming from the Warsaw Pact experience, from a really strong influence. If you read the Bulgarian constitution now, it was made as a constitution of a neutral country and this is now becoming a problem for our Nato integration, for European integration and now we are pushing for constitutional amendments. You do not need to have this experience. Basically, you can orient the constitution process making the new statement: how is it going to look and how is it going to be called? are much easier with respect to the accession process.

The third is the public support. I know that everybody said that public support is important, but I do believe that public support is really going to be important in political terms. If people are going to be fed up with the *status quo* and at the end of the day, what the experts are calling

transition, for people this is their life and after three, four, five years they can become very bitter at what is happening. So if they are not going to be involved in the constitution making process then at the end of the day it is not going to be with the people, but with the elites, and it is going to be perceived as a conspiracy of the elites against the interests of the people, no matter what is the content of the constitution. So from this point of view I do believe that the involvement of the people is much more critical than simply from the normative point of view that it is much better when people are involved, but this is going to be an argument for the stability of the system itself.

And here I am moving to my fourth point. My fourth point is really based on some of the interesting research that came from the last two or three years. I am trying to ask a very simple question: who is the enemy of transition? Where are the most important obstacles for transition coming from? Academics and some others, I do believe, have made a great contribution to this debate, that the biggest problem for transition is not the losers from the reforms, not the people living under one dollar per day, but basically those who have won in the early stages of reforms and after that drop the reform process because they are not interested in competition any more. In a strange way it was the transition being dropped much more by the partial winners than the losers. If this is the case, I do believe that you are in a much better position than all of us, because the winners have been produced by the old regime and not by the transition. And I can imagine that there can be much more political will here to go ahead with the reform, than in some of our countries. At

least, maybe this is part of the good news that can come out.

And I am going to my last, fifth point, as you know we have been restricted to five. This is basically, at least in my view, what is important about constitution is that it cannot be a zero sum game. If one of the Republics is going to achieve everything that they want and the other is going to lose everything that they want, this is not going to be sustainable issue anyway. So, from this point of view, the problem is not to stop asking the question who is gaining and who is winning but basically to try to give the answer in which everybody is winning. Because, at the end of the day, the constitution is not simply a talk between constitutional lawyers, this is *realpolitik* and this is going to be an embodiment of a very concrete political compromise where real people with their ambitions, with their strategies, with their paranoia and fears are going to be involved. Where people are not reconciled to their paranoia, I don't believe there is going to be a working constitution.

Thank you very much.

Speech by Milo Djukanovic  
*President of the Republic of Montenegro*

Mr. Chairman, Ladies and Gentlemen,

I was pleased to accept the invitation to participate in this gathering. Let me start with my thanks to the organizer - UNDP, for their ambition to bring together all of the signatories of the Belgrade agreement, as well as distinguished representatives of the countries that have already made it through the major part of their road to transition - the road that still lies ahead of Serbia and Montenegro. This also refers to the invitation of other international dignitaries who are ready to help us avoid possible pitfalls along this road of transition. I do believe that so far the contents of this discussion have equally justified the expectations of the organizers and participants.

I believe that it is important that the concept of this gathering is to focus on topics and issues that specifically address the European future of Montenegro and Serbia. Their relevance is even greater due to the fact that we paid a high price for the past decade during which we were prisoners of a disastrous policy that kept us tied to the past.

Let me also express my appreciation of the proper timing for this Round Table. I have in mind the activities under way on drafting of the Constitutional Charter. It should stipulate the legal norms for the decisions that are clearly defined in the Belgrade Agreement. No more and no less than that. This is why I think that we must not hesitate, as time is something that both Serbia and Montenegro have long been short of. The adoption of the

Charter is a necessary presumption for the establishment of the institutional framework. Also a prerequisite for filling up this framework with contents that would place our mutual partnership on a European basis. This would open room for the process of association and stabilization, and for getting closer to the EU. The Belgrade Agreement reflects the essence of this process, and thus it respects and enables the mechanisms for unhindered individual and common development based on European values.



The attempt of certain traditionalistic circles to interpret the Agreement in a different way demonstrates lack of basic understanding of the European philosophy, as well as of the essence of the integration process. At the same time, it is an attempt on their behalf to use the old principles of unitary system of ruling to keep their posts. With all of the challenges that it has faced, Montenegro has shown that a European mindset is prevailing over such tendencies. I believe in the success of the Belgrade Agreement, despite the fact that it involves an atypical model of a union and a complex institution-building process. Let us not forget that the contemporary process of globalisation and integration is of the same nature. I

believe that the Belgrade Agreement is an expression of not only a need but also of the right to affirm the differences.

For its part Montenegro demonstrated willingness for compromise and a responsible approach to the stability of the region once again on March 14. Reinterpretations of the Agreement or attempts to make use of the drafting process of the Constitutional Charter or of the preparatory activities for the Stabilisation and Association process to depart from the arrangements provided by the Agreement are undermining the compromise reached with so much effort. Montenegro will prove fully responsible in implementing all of the obligations it undertook by the Agreement. We look upon it as the basis of our future partnership.

I am particularly pleased with this opportunity to speak at the session about sustainable reforms and human environment. Ten years ago Montenegro launched the project of an ecological state. Today, this project needs to take into account the global component in accordance with the new processes taking place. My thinking is that the interactive relation of this project with the projects of economic reforms and transition, as well as the sustainable development to a large extent contributes to the prospects for implementation of all of these projects together. When designing a new environmental and overall development strategy we have to take full account of a strong synergetic effect that exists among them. Undoubtedly, the future of Montenegro is in the process of Europeanisation. This is also the main premise in building our partnership both with Serbia and with other countries in

the region. The positive climate is also being created by the recently developed EU active strategy for democratic transition of this region. It also includes a full integration of the region into the EU. The process of association and stabilization is a European signpost and it is opening prospects for Montenegro and Serbia. Of crucial importance has been the fact that democratic forces and political elites here are taking this European strategy as benchmark for their activities on the national plane.

The process of stabilization and association provides for assurances and mechanisms by which each country will be able to make progress towards European integrations at its own pace. It means that the different starting positions and capabilities are duly respected. It was this principle that made the compromise of March 14th in Belgrade possible, because, among other things, it took account of the different degree of implementation of reforms in Montenegro and Serbia. We must all realize that the Agreement on the Principles for Restructuring the Relations between Montenegro and Serbia reflects a new reality. Both in our mutual relations and in the Balkans as a whole. Once again, I would like to affirm the positive role Mr. Solana and other representatives of the EU played in that process. Although the Agreement is primarily the measure of responsibility undertaken by the highest-ranking representatives of Belgrade and Podgorica. I often emphasize that this Agreement presents the most transparent proof of positive trends in the early post-Milošević era.

The price that Montenegro paid for accepting the Agreement is the ongoing

government crisis. I believe this to be an attempt of political fishing in troubled waters, although the Agreement itself is actually the most transparent recognition and verification of Montenegro's achievements both at home and abroad during the difficult period behind us. At the same time, the Agreement is a final break off with the Yugoslav illusion, with which the former regime skilfully manipulated for almost a decade. I am afraid that even at this stage of the Agreement's implementation the Yugoslav cloak, cunningly wrapped around Montenegro and Serbia by the former Belgrade regime, is still causing some misunderstandings and disagreements.

The sooner it is understood that the implementation of the Agreement does not mean redefining the old joint institutions but rather establishing new ones reflecting the interests of Serbia and of Montenegro today, the faster we shall move forward. Besides, we must make an effort and ensure administrative and constitutional capacities, and a framework that will facilitate adoption of European values. Yet, it does not mean that we should also annul our respect for the fundamental democratic principle of equality. We should responsibly create conditions for building such a partnership that will fully acknowledge the differences between the member states, in the economic and other spheres. We have also to create conditions for building a system based on rule of law and on legal democratic institutions that will be administratively equipped for tackling crime and other negative by-products of transition processes. Building of a new system entails, among other things, creating conditions for work of

independent media, and reform of the military and of the police force in accordance with the international standards. I think that the action plan for harmonization of economic relations, which has been adopted by the governments of Montenegro and Serbia, is a road that takes us forward, promoting the interests of both in the spirit of the Agreement. Economy should be the arena that absorbs the most difficult problems. This plan is a demonstration of how acceptable solutions can be worked out provided there is mutual understanding. It is encouraging to see that the EU is supporting and welcoming such constructive agreements. Should the same logic be applied to the institutional sphere, and to the other questions to be regulated by the Charter, I believe that we would shortly come up with a document that would adequately satisfy all participants in the implementation process. We cannot use the old logic and old ways to build a new relationship. After a long decade of wars and all kinds of conflicts in these territories, Montenegro and Serbia found the strength and reached an agreement. Through dialogue and by respecting different interests. The long history of the Balkans does not abound in agreements. Therefore, the responsibility born by each of us who participate in this process is so much greater. I believe in its success, and I am fully committed to the implementation of this Agreement. The same goes for all the authorities of Montenegro. I am also optimistic with regard to the overcoming of the crisis of the executive that this Agreement has triggered in Montenegro. My optimism is backed by the results of the recently held local elections, and I believe that the results of the forthcoming

parliamentary election will be even more convincing. This is not mere political propaganda. It is rather an evaluation of the ongoing processes in Montenegro, where the awareness of a need for dialogue and agreement has prevailed. Our efforts at reform and other pending obligations have been set back by elections, but this is also part of a process of democratic maturing. These forthcoming elections present a chance to measure our strengths on the issues of dynamic realization of economic and democratic reforms, faster overcoming of serious social consequences of transition and implementation of the

Belgrade Agreement. It is in accordance with the Agreement that the status issue will also be addressed.

I believe in the building of such a partnership that will be firmly rooted in Europe, and that will enrich our relations in a comprehensive way regardless of whether, three years later, Serbia and Montenegro will be two independent and internationally recognized European states, or they will continue to live in a union of Serbia and Montenegro.

Thank you for your attention.

**Speech by Rene Castro**  
*Former Minister of the Environment in Costa Rica*

I will add to the equation, this cost this morning, another transition, that, in the case of my country, my region, is being very important. It changed the development equation, it changed the GDP of my country and it shows some opportunities that I think will be important to this region, and in particular for Montenegro. I am coming just to give you a brief world location from Central America, very tropical country, small area, with neighbours that you will recognise from the news, Panama, Nicaragua, El Salvador, Southern Mexico, Chapas. A civil war, during the nineties, a very long-term peace process.

We managed to have some better indicators, to remain in peace. I have some figures here, that could be different from the ones you are managing but the source sometimes do different systems. Small, for example, population, of 3.7 million people, with a GDP that was very close to the one I have heard for this, 1997 and then there was a jump, a few years after that. I will try to explain the origin of that jump, with this new transition to global responsibilities. I am going to highlight that in the other indicators, life expectancy, infant mortality, we were close. In the immigration we have been having a very large flow of immigrants coming to the country to 12 per cent of the population now and we inherited a very particular situation.

In 1949, my country disbanded the army and took that money for police of course, as it shows here, but education then housing, then health. That helped us for

the next 50 years. That gave us some of the indicators I am showing here. Why then did the president and the party, that were successful in that part of the Costa Rican development, decide to change the development strategy in 1994?



I will try to answer that with where we were and what were the problems. I have a list of local and global issues, a partial list, for example, we were having twenty-five percent of the forest protected. That was good, but we could not afford it. How would you protect that, how would you combat the fires, how would you pay for the forest rangers? More important than that, how would you renounce production in that land, to do some oil exploration, or mining or extract products? Then we have other indicators, like air, water and forest reducing and economic ones, inflation, government deficit increasing.

We have some first steps in the environmental area, like there was a Ministry of Natural Resources, Energy and Mining and there was a plan on top of the consultation process. But on the global side, things were more difficult for us. Globalisation became obviously irreversible. That meant for a country like Costa Rica, a sharp reduction in

import tariffs. For example, we had a four hundred per cent import tariff for cars and because of new trade agreements, it has been reducing and it is today around 100. We had also, during the Cold War, high immigration rates around the world, sharp reduction in official development aid, and direct foreign investment highly competitive.

So, there was a peace process, a successful one, that the neighbours were competing with us and attracting the textile companies and industries to go there. And it, the Earth Summit in 1992, came to life. Well, we decided it was time to really launch the long-term strategy for the country and responded with the adoption of a sustainable long-term strategy.

I have a summary here, based on three pillars instead of the old, traditional two, which were mainly economy and equity. We add to that pillar, ecology, equally important, and we think now, equally important, meaning by that, good business for the long term. We adopted the Bruntland principle: meeting the needs of the person, without compromising the ability of future generations to meet their own needs. A new model of policies came to life. Instead of the old command and control for which we did not have all the knowledge (we did not know about agriculture, industry, tourism, transportation), to order and then control the companies to do that, we started to use other instruments. Market instruments, like giving incentives to the people that save energy, and sanctioning the ones that wasted. Then, a lot of public information. Who was doing what? Which industries were the leaders, adjusting their strategy, adopting global

standards, and which were the ones resisting, polluting and not taking care of the social or environmental issues. And more important than that, a series of volunteer programmes, we decided that it was not for us to be in a continuous struggle with the private sector, because some of them, volunteered to be leaders and we have a series of good examples, for example in the coastal areas, communities developed their own Blue Flag Programme. Meaning by that, they, jointly with the NGOs, developed small waste management programmes, they took care of the quality of the drinking water, of the security of the people and by doing that, they attracted more tourists and the government only monitored the system and helped them to disseminate what they were doing. Why is that important for development?

I am only adding a problem to the already complex equation of development, or to the already difficulties of transition, now with a new economic model, taking into account the ecological cost. For us, it has been an opportunity and I have here an example.

The first one. It was agreed for all other countries, that the polluter should pay, but it is easy to say and it is hard to implement, so we decided that if that principle was adopted why not go in XXX. If there were polluters in the world and some people were willing to do good environmental activities in a small country like Costa Rica, why they don't pay us to do that? I have here a simple diagram of the first deal with rich, international companies from Norway. They were polluting the atmosphere in their country with global greenhouse gases like CO<sub>2</sub>, but which damage all of us, regardless of the point

of emission. It was too expensive for them to reduce that emission. Very costly. On the other side of the ocean, there were Costa Ricans planting trees and doing exactly the opposite, absorbing the CO<sub>2</sub>, growing the trees and releasing the oxygen. But, they did not have enough capital to keep doing that and doing it for long term, as the tropical tree species needs to grow. So, we called the first deal, they pay us, we plant our trees, they then bought the recognition of those reductions. The first deal was 200,000 tonnes of CO<sub>2</sub> reduction, and we sold them at US\$10 per tonne. It was a deal of US\$2 million, the first in the world, but it cost us too much. It is expensive to go from Norway to Costa Rica, from Costa Rica to Norway. It is expensive to have different languages, lawyers dealing one with the other, so we decided it was necessary to move ahead and to reduce the transaction costs and this is depicted in this second picture, in the upper middle.

What we did, was again, the same concept, but this time we added an international auditor and surveyor, that will go check that the forest is doing what we said it was doing, fixing carbon, in the amounts we said it was doing it and then the government issue a certificate with all the projects from the country that on those years, we called, a Certified Tradable Offsets, that is why the CTOs are there. And we did some other deals that I will show you later, but the message here is that by the end of this year, this same idea will be part of a global, now standardised system of transaction of CO<sub>2</sub>, now called CERs, Certified Emission Reductions, under the Kyoto Protocol, under the United Nations Framework for Climate Change.

At the same time, in the same forest, now the lower middle of the cartoon, we started to do a sustainable forestry effort, extracting less wood per hectare, but doing it annually and forever. Produce less product, but those products produced will show a green seal. With that they go to the market, get a better price and provide the country with a new income source. This small business has reached now in the neighbourhood of US\$50 million a year as an export.

Another example is the biodiversity. You heard a lot about it. How to preserve it, how good it is. Well, in Costa Rica we have this kind of forest that you see there, chemicals, genes and bionics, the relationships between the species. What does it mean for a poor country like us? How do you incorporate that in your development equation? We have been doing it, by exploring for new medicines, new food and new cosmetics, jointly, with more than 20 pharmaceutical and cosmetic companies from around the world. They provide the investment, the capital, we provide the labour, the local knowledge, the laboratory facilities and there is a business negotiation, a contract. If there is a pharmaceutical hit, in addition to the total investment cost and ten percent going to preserve the national forest, kind of an environmental tax, we will get a royalty. Similar to the ones that were developed in oil exploration, another area, but this is a natural, renewable resource.

Another example, and I'm getting closer to my time limit, is a new product and I'm sure that Mr. Kalman invited me here because he was one of the eco-tourists going to Costa Rica, which is a new, small engine in the tourism

industry. Why new? Because, these guys, they go to look for different things. They come to the country and they go to small community hotels. Twenty rooms or less. They go to quiet places, to remote areas, they don't want the crowded areas. They are small in number but for every dollar they spend in the country we remain with 40 cents. With traditional tourism, for every dollar they spend in the country, we got only 10 cents. So it has been a good engine and now we have a much more balanced discourse, debate between hundreds of small little lodgers and communities and NGOs and groups doing eco-tourism and the big names, the big hotel chains, doing the traditional tourism, going to the beaches and things.

I really think, that for example Montenegro and perhaps Serbia, that I do not know well enough, only as a back-packer in my old days, have a great opportunity to develop their own distinctive eco-tourism niche, because some of the plants are the important microphoras.

Then new sources of money came and we have managed to develop new energy alternatives. I am coming from a country rich in hydro-energy. That was the main source of energy, but with these mechanisms we have incorporated wind-energy, bio-energy, thermal-energy. And from being a net importer of energy, just in 1994, and being at the brink of having blackouts, we are now exporting energy to neighbouring countries. Clean sources of energy, with new funds of capital and using the global mechanisms. We have also attracted money for forest management and energy efficiency, meaning by that, it is cheaper to help the consumers use less energy and provide

them with incentive than to produce it with other forms, like with thermal energy which is very expensive and we don't have.

But, our neighbour countries did not follow the same equation. The blue line is the reduction of the power capacity in renewable sources of energy. And the yellowish one shows how much they are going to fossil fuels. We did not follow that path because it was wrong. It cost us foreign currency that we did not have enough, it took our jobs and sent them to the neighbouring countries and then it produces an additional source of pollution to the atmosphere.

We paid the price. It is shown in this overhead here. In 1995, because experiencing these new forms in energy, we paid 7.4 cents per KWh for wind energy, but five years later, in the same location, same size of plants, we are paying now 3.4 cents per KWh, for the same quality of energy. For four reasons:

1. Development bonds, learn how to use new financial packages
2. There is some improvement in technology, great improvement in technology
3. We were able to sell the certificates of CO<sub>2</sub> at US\$10 per tonne and that made wind energy of the equivalent cost of alternative thermal source
4. Our engineers learnt how to use wind energy

I am a civil engineer, myself, and my colleagues were really scared of doing new sources of energy, because they were not used to that. They were used either to quickly, with cheap initial investment fossil fuels, but something you could not see in the longer term, or

the hydro projects, you know, that were difficult on that time.

So, my conclusions of these lessons. Are they applicable to this region? Well, it is too early to say. We are only mid-journey, but all the Costa Rican main political parties, have adopted the sustainable development strategy and we have had now three different governments from different political sides, with the same strategy. Secondly, we became a pioneer, in terms of biodiversity strategies, and CO<sub>2</sub>, with nobody to look at, but now we are very much the reference and we discuss, face to face with the big names in the world, without complex of inferiority.

Third, the energy strategy imposes higher investment cost, presented by consumers. It took the country five years to see the first signs of success but now it will mean US\$200 million of exports to neighbouring countries. An increase in eco-tourism, and a reduction in forest fires, and human vulnerability, because of better management, was the first positive signs of the new strategy and that help us to gain the public and put them on board. More important than that, and that is what explains the big jump in the GDP, this new credibility, this new leadership allowed us to reach the big names in new activities. I told you we were losing the textiles but we gained the high-tech industry and the big names, Intel, Motorola, Microsoft. They came, some of them, as Mr. Kalman did, as an eco-tourist, some of them attracted by some publication in the German media about the CO<sub>2</sub> transactions, or something about a small country doing something differently.

Development banks and financial institutions were slow, it took them time but now they are ready and I think this is one of the great opportunities for this region and for this country. Our people were quick to develop ideas and to develop plans, but were very slow on implementing them. They were so used to wait for the government indications that they wait, they did not go by themselves, but now they are doing it. But they were so used to a central planning system.

And finally, two risks, important ones, part of the lessons. Some bring extremism in the country now. It is even opposing every hydro project. The public opinion had gone so far as closing all the mining and oil exploration in the country and the government is been very much moving in the same direction and that is also, is been followed by the international green extremism and one or two important NGOs has been systematically accusing the country of merchandising the environment. And calling out that, you know, we are merchants in this area. We responded to them that we could not afford it but now our forest is not being destroyed.

Thank you very much.

Speech by Jan Willem Blankert  
*Delegation of the European Commission in Belgrade*

It is a great honour to be given the opportunity to address this audience of such eminent persons<sup>16</sup>. And it is a very particular pleasure, because it is immediately after two important presentations by two persons whom I admire for their ceaseless effort to bring their countries closer to the European Union. Deputy PM Labus – with whom we, the EU, the European Commission, cooperate so well – and, second, Danuta Huebner with whom I worked closely when I was in Poland, and who has made such an important contribution to bring her country where it is now: on the threshold of entry into the EU.

To be frank, while listening to all previous speakers, I began wondering if I really should say anything at all. All those speakers spoke without exception such positive and even warm words about the European Union. I thought: had we hired a top class promotion Agency we couldn't have wished better! So I wondered what further value I would be able to add to all this praise? I hope the following:

Let me try to briefly clarify a few points about: first, the "Belgrade Agreement" of 14 March – about which previous speakers have been talking in more detail. Second, how that Agreement fits perfectly in with the other elements of our relationship with this country - in

particular the Stabilisation and Association Process. Third, how do we, in the EU, and in particular the European Commission, see the implementation of this Belgrade Agreement?



First one short step back in recent history: immediately after the changes in October 2000, the European Union included this country in its Stabilisation and Association Process (SAP). This is the process we have with other countries in the region. It involves trade liberalization, political dialogue, money (very important assistance funds) and, above all, the prospect of possibly joining the Club, i.e. membership of the European Union, one day.

In essence the Stabilisation and Association Process (SAP) is very similar to the process the candidate countries have been going through, i.e. Hungary, Slovenia, Poland and the others who are now really on the threshold of the EU.

So in October 2000 – less than two years ago! – the EU and the FRY started their relationship, their cooperation, the dialogue. As it has been mentioned, the EU/FRY Consultative Task Force (CTF) Meetings form an important part of that

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<sup>16</sup> In the audience and among the members of the panel were President Kostunica, Deputy PM Labus, various Federal, Serbian and Montenegrin ministers. Furthermore a number of Balkan and/or EU integration veterans from the region.

relationship. In those meetings experts of both sides go through all the technical nitty-gritty that in the end is the tissue of which the European Union is made: rule of law, organization of the judiciary, consumer protection, environmental conditions, telecoms (de) regulation, banking supervision regulation, customs, trade etc. etc. In these meetings representatives of the EU and of the FRY review in detail, how all these things are organized in this country; then EU experts explain how the same things are organized in the European Union. Subsequently, joint recommendations are formulated as to how this country can approximate to EU rules and practice. These recommendations are then in a sense the “homework” for the next CTF meeting.

However, during these Consultative Task Force meetings we became more and more aware of the fundamental problem of this country: What was this country? Who was in charge? And of what? Who was our interlocutor? To practically all our questions we got two answers: One from Serbia and one – a different one - from Montenegro. In name the FRY is one country, but in reality, we became more and more aware, you are two.

In the European Union we have 15 countries with One (Internal) Market. Here, in the FRY, it appeared we have the opposite: one “country” with two (divided) Markets: two trade regimes, two customs systems, two judiciary systems, two banking systems etc. etc.

And more and more we felt we were running into a wall preventing us from going further. For example, one of the key elements of a Stabilisation and

Association Agreement is trade liberalisation. But how can one have an Agreement, i.e. *one* Agreement, on trade with a partner who has *two* different trade regimes? In order to be able to conclude an Agreement – a Stabilisation and Association Agreement - with this “country” first it should be defined what this country is, what it looks like, how it is functioning, who is doing what? The answers to many of these questions remained unclear.

We all know the history of this rift, of the drifting apart, how it happened. But in order to be able to go ahead with the process of integration into the European Union – we needed a re-integration exercise. After all, integration begins at home! So in the SAP/CTF context, in order to get out of the stalemate, we, the EU, asked for an Action Plan, a Re-Integration Blueprint, with a clear calendar, indicating how the parties – Serbia and Montenegro – thought they would re-integrate these two markets again. To put things in context: if Serbia and Montenegro would manage to re-integrate their economies again *at least* to a level similar to that of any two EU Member States – be it Italy and France or Germany and Spain - much would already be won. Today Serbia and Montenegro (N.B. in name one country!) are de facto much further apart.

At the same time, in parallel, at political level, the EU General Affairs Council – i.e. the meeting of the Ministers of Foreign Affairs of the EU Member States – made it clear that they would like Serbia and Montenegro to stay together: “A democratic Montenegro in a democratic FRY”. Throughout 2001, this call on Serbia and Montenegro was repeated, with the wording becoming

stronger and finally, late last year, followed up with Mr. Solana's active mediation/facilitation.

The "European lesson" above all of this mediation – and this is perhaps more a personal opinion – was: *talk* first. "Talk! Talk! We have a reputation in the EU for talking. Sometimes we talk very long and very much. There have been cases where, once the deadline was reached, the clock was stopped in order to allow the talking to go on. But look what this talking, this "yaw-yaw" (instead of "war-war") has brought us in the EU: 57 years of peace and stability, 15 Member States, many others knocking at the door wishing to join.

As we know now, Mr. Solana's mediation led, indeed, to talks between the parties and further talks and, finally, on the 14<sup>th</sup> of March, the Belgrade Agreement: a clear commitment by the political leaders of Serbia and Montenegro to harmonise their economies, to re-integrate. The Belgrade Agreement, as also stressed by Commissioner Patten when he was in Belgrade several weeks ago, is entirely in line and compatible with the Stabilisation and Association Process. The two – the Belgrade Agreement and the SAP – are mutually reinforcing. The SAP is, in a sense, the flesh on the bones, providing structure, strategy and goal (integration according to the EU model and, eventually, into EU structures). The Belgrade Agreement provides or reconfirms the political commitment.

All this looks quite obvious, i.e. to us, who are directly involved. But confusing statements in the press and reactions among the public in the last few weeks

show that it is not (yet) so obvious to all. So it may be worthwhile that I repeat it: the Belgrade Agreement is entirely compatible with the Stabilisation and Association Process, reinforces it and has the same final goal. But one thing is clear: a considerable amount of explanation and clarification has still to be done.

So where are we now? What has been achieved since the conclusion of the Belgrade Agreement? First, there is the work going on in the Constitutional Commission. After several weeks of intensive discussions in the Constitutional Commission and among politicians in Serbia and Montenegro work on the Constitutional Charter is approaching a critical phase. There has been progress, but progress is slow and there are many areas where no agreement has been reached yet. We know there is the deadline of the 2<sup>nd</sup> of September when the Council of Europe would like to see a text, *one* text, which at least has been agreed by the drafters and their political masters, even if not yet cleared by the Parliament(s). Let us hope the rest of the month of July and also August will be used to come to agreement (in time).

So I think the end of July deadline for the first draft, which is still generally accepted, should be maintained mainly for two reasons: first, it is crucial to keep up the momentum of the efforts to implement the Belgrade Agreement; and second, discussions on the provisions of the Constitutional Charter have been broad and exhaustive and should now be wrapped up. The time seems ripe to come to the stage of finalizing the text of the Constitutional Charter.

Where do we stand with regard to the Action Plan, the plan for the creation of this common or internal market? The Belgrade Agreement mentions "Harmonization of the economic systems of the member states with the EU economic system" and, further on "The modalities for the achievement of these objectives shall be elaborated in parallel with the Constitutional Charter". This re-integration exercise involves all the nitty-gritty about joint economic systems, common standards, common rules when companies want to establish shop etc. etc. etc. This is the work undertaken by the "Troika" Labus/Djelic/Ivanisevic.

We think this operation is in good hands with this "Troika". We see their work as a faithful effort to indeed harmonise the economic systems of Serbia and Montenegro with the EU economic system, just as the Belgrade Agreement stipulates. We see it as a faithful effort to restructure the federation, to keep what is vital; to revitalize what is needed in a common state, but not functioning at present and to get rid of dead wood. We see it, as one would put it in management terms, as a restructuring operation, a rationalization exercise with the aim to end up with a well-functioning common system, hopefully within three years; with the EU economic system as the example and the final objective.

Therefore, I have to admit I am surprised when I see the misunderstanding - even suspicion it seems - that exists when it comes to this exercise. I attended the press conference given by Mr Djelic and Mr Ivanisevic last week, just after they had presented their first draft of the Action Plan to the Consultative Task

Force Meeting. The next day the press reported: "Two economic systems in the New State". Whatever Mr. Djelic and Mr. Ivanisevic said at that press conference, I am sure they did *not* say this. It seems their message was entirely misunderstood. That is not a drama, but it is a pity and it shows and should remind us that there is still a lot of explaining and clarifying to do.

As I said before, if Serbia and Montenegro would use the coming three years to make sure that their economies re-integrate/melt together again *at least* to the level that any two EU Member States are integrated - say Italy and France or Germany and Spain - much would already be won. Today Serbia and Montenegro are de facto much further apart. That is the great potential and the challenge of the work of this "Troika Exercise".

Therefore, I think it would be good if the result of this Exercise, of this "Manual of how to get together again in three years", would become/could become an attachment to the Constitutional Charter. This would serve two useful purposes. First, it would add a very practical, operational element to the Constitutional Charter. And, second, once part of the Constitutional Charter, it would have to be approved by Parliament(s) and thereby be legalized/legitimised.

Before I finish I would like to say how we esteem the tremendous effort and energy that so many excellent people are putting into the work that is now going on, both on the Constitutional Charter and the Action Plan. We hope the process can be completed in time with a workable compromise, acceptable to all involved. A compromise that will lead to

a better functioning Serbia and Montenegro, with competences/responsibilities well defined and well respected. A compromise, moreover, that hopefully, in those three years, will be able to clear the way to the conclusion of a Stabilisation and Association Agreement with the European Union (and, not to forget, should clear the way to entry into the World Trade Organisation).

There is another important reason to try to come to a solution as soon as possible. Once there is agreement on these important – crucial – questions, the excellent people, who are now putting so much of their energy into work on the Constitutional Charter and the Action Plan, will be able again to go further ahead with the economic reform process, in which this country has so far been so

exemplary. Further speedy and thorough reforms and modernization are required in order to come closer to the European Union and hopefully to join the club one day. The Constitutional Charter and (together with it?) the Action Plan should provide the overall framework, the setting, in which these reforms should take place: together, in harmony, in a re-integrated state, with the EU as a model.

That is the process the way we see it. I do hope that what I said has helped to clarify and lead to greater understanding and appreciation of that process. We wish those who are putting so much energy in this demanding exercise good luck and speedy success.

Thank you.

## SPEECHES BY MEMBERS OF THE CONSTITUTIONAL CHARTER COMMISSION

### ***DRAGOLJUB MIĆUNOVIĆ:***

Thank you very much!

I have no objections to statements made by presidents of governments and states, or to the statements made at this morning's session, as I was not invited and did not hear them.

With respect to that, I would like to say a few words that should at least, to some degree, shed some light on the present situation and on what we are doing and what exactly we want.

Since the very beginning, when the Belgrade Agreement was being made, the parliaments were not included. What the parliaments got was the finished text of the Agreement made by the President of the federal state and Prime Ministers, and the President of Montenegro, and only then the parliaments adopted this as a working task, as a concept.

According to this agreement (the Belgrade Agreement) the parliaments were obliged to establish a commission, delegating to it a certain number of members.

This position itself, in a way, is out of the normal, neither fit for a democratic country, nor for a democratic manner of adoption of a constitutional document.

The parliaments have been delegated by getting a working task and they were supposed to do this task, this homework. Now, to make things worse, the parliaments should later on adopt this

document. But I do not know who it will be who will say the final word. Will we again the ownership of some political will or not?



What are we doing here?

We are writing the Constitution. Every Constitution has the ambition, first of all, to provide for as wide a support of citizens as possible, and this support is best tested at the place where they are best represented – in the parliament. The Parliament represents all political parties that have won votes at elections. So it is the Parliament where a debate should be held so that the wide acceptability of the document by citizens is tested.

The second ambition that a Constitution should have is durability. So, it should be widely supported and it should last for a long time.

Here, on the contrary, we have an uncertain durability, a conditional constitution. It should, in my opinion, be made with the idea of being in force for much longer. This is the second problem that we have.

If we have a task to fulfil, if we have established the commissions, it is then a question of the conditions under which these commissions are working. I think they are working very hard and very well, although the governments criticize them of not working hard enough, and that this should maybe be changed, and so on, that they should be better updated and better supervised.

I believe that pressure that prime ministers or presidents would exert on the Constitutional Commission, either in respect to time frame or in respect to content, would clearly indicate a lack of true, wide, democratic atmosphere or democratic procedures. That is the first problem that we will encounter:

Are these commissions and sub-commissions autonomous in their search for the best solution?

Finally, we have here a problem of legality and legitimacy. It is an old, recurring problem.

It is of course legitimate for us to hear the public opinion, the say of the voters and to find the best constitutional solution. But it is also natural and understood that this should be done in a legal way.

This second way we have already not provided. We have found ourselves in a certain situation, because certain articles of the constitution had been coarsely violated, sometimes also the major part of the constitution had been violated by a certain political will in Yugoslavia and at the republic level by someone who is now not here, and abroad, and I believe that you know that I am talking of Milošević. But there were also reactions to that, coming from the Montenegrin side either in self-defence or in another context by the Montenegro Government, which also meant that the Constitution could not be deemed legal and legitimate, and this even refers to statements that the state is dead, that the constitution does not exist, that there simply is no constitution, and so on.

We have found ourselves in a field of very uncertain legality:

What is this that we are doing now?

Are we doing this out of some continuity or out of some discontinuity?

If we are doing this out of discontinuity, than we must have a certain revolutionary will that will make a cut and elect an interim parliament, so that this new parliament will start anew and adopt constitutions.

If, on the other hand, we are speaking of continuity, than this mere fact “Who will adopt the Constitution?” the fact that the parliament is participating in the writing of the constitution, would mean that there are federal institutions, there is government, there are international agreements, diplomacy, etc, it seems to me that we must accept the fact that there is a certain state continuity,

irrespective of different interpretations or different approaches to the constitution as such.

We have now created a situation, which I think is dangerous. A certain situation has been created, and I will not go into how it was created. But we must start from that as a fact.

So it was a kind of *fait accompli*, a fact. Through certain Hegelian rhetoric you say that a thing has been overcome (obsolete), that the former state is overcome (obsolete), that we do not know how to overcome it in several years, how to overcome a state concept or a state, and – it is stated that there is no more sense in talking about it.

That is the situation in which we are. I would not like to put a value sign on it, nor, much less, to evaluate whom and to what degree is to be blamed for it. But we should find a way out of this situation and accomplish something.

Our problem is as to whether we will start by taking the reality, the actual state of things, and which in political terms could be called a *fait accompli*, as the only reality and stick to it, or we can understand that the reality is somewhere else, start thinking in a process way and start thinking that we are a European country, a country striving for European integration, that we want to be like European countries, and within this reality we start looking for solutions that are ahead of us.

If I understand correctly, there is here mention of the word “strategy”.

Strategy has a temporal (time) dimension to it. If here we do not have a

temporal dimension, it does not mean that the question is not asked as to “What we will be in five or ten years? What kind of a state will we be - a union, a federation or what?” If we do not have this dimension, than it means we have no strategy, we are operating on day-to-day basis, and in this living, which is unbearable for many citizens, who have already been through a disintegration of one country, then another country, then parts of this country, and who are under constant frustration that they do not have for themselves a clear-cut state roof.

I have therefore tried at the Constitutional Commission that we, to the degree to which we have basis principles to stick to, should free ourselves of looking back into the past, and should look for a model for which we believe will in a way defined from the point of view of a short strategy of European development, meaning those criteria, solutions and laws that Europe has in place today.

If I understand correctly, and I believe that I do, since I have many contacts with multi-lateral European parliamentary institutions, the Council of Europe, OSCE and others, Europe wants to see Yugoslavia and the whole region ready for European integration.

So, “integration” is the dominant word in the present European strategy.

What we are now trying to do is to come out of a non-defined situation and enter into the integration process.

I understand the work of our Constitutional Commission exactly as a search for possible integration of what

has been cut off, and in this not to limit anybody's rights, prevent, and especially not cause, any kind of discrimination, memorisation, inequality etc., for which there are very good instruments available, which we only need to define and adopt - but keep integration as our intention.

There is an obvious dispute over this. It should be said aloud. Many alternatives, which come up as solutions for the sub-commission, demonstrate this very clearly.

Do we have integration, as a value stance, and a certain projection toward Europe, and within this framework search for solutions for our market, for our finances, political institutions, etc., so I repeat, by attempting to respect the right of both members and their independence to the degree when the state union becomes non-functional, or, do we here want to create states that will insist in this dispute on a sense of sovereignty that has for a long time been outdated? Therefore, in the concept of national states, with all attributes of sovereignty, like the currency, market, borders, political representation abroad, etc.

We have faced this. The question now is how do we decide.

What we have received in the document by the Venice Commission, and through some other discussions and suggestions, is encouraging and it encourages us not to give up this integration concept, which will enable the two republics, two states, to be functional in a way that Europe would accept. In that way, we will give dignity to the work we are doing, make it less temporary, because if

it is temporary it has no authority, no respect; but we want to come up with a serious document and offer it to our parliament for adoption. The parliament, in my opinion, is the one who should have its say.

Now, we must make a turn here. If the whole thing has started by agreement of political wills concentrated around executive governments, we will demonstrate that the final acceptance will have to come from parliaments, the parliamentary power.

We are a very young democracy. In the previous regimes, our tradition was not sufficiently, or not at all, democratic, although we might prefer to think that of ourselves. And even when there were some forms of democracy in the judiciary or in parliaments during the previous regimes, especially the communist one, they were more of a decoration than actual division of power.

Therefore, we have a special task to give the parliament its dignity, and when we speak of democracy, we should speak of the development of a parliamentary system, and not of strengthening presidential and other positions, as if that is so we would have what Montesque termed as "the tendency of power to narrow".

Since we have such bad past experience in one hand, or in both hands, all the same, we must establish institutions in which citizens will be able to influence their destiny. That is democratisation, at least the way I see it.

There are many technical solutions of which now and here I will not speak and which would not contribute much. But I

believe that we all could, primarily as parliamentary members, have the responsibility to write a document that we are expected to write, and without wishing to insult them, but no prime

ministers, no president, but exactly – the parliament. We will be responsible for what we are doing here now.

Thank you.

**DRAGOR HIBER:**

Thank you.

I am a bit surprised by the sequence, but never mind.

I will start, similar to Professor Mićunović, by saying that we, as a Constitutional Commission, have found ourselves in a truly unusual situation.

Realistically, we are doing something, which is a revolutionary act, in an unconstitutional manner we are writing a constitution. It might seem as a great freedom for a constitution writer, not being tied by forms of the previous constitution and rules on its implementation. That is number one.

On the other hand, we have a different framework, a different boundary, unconstitutional, this is not a negation of the constitutional principle, which is not of a constitutional nature, I wish to be precise in terminology, it is the Belgrade Agreement or the Starting principles for rearrangement of relations between Serbia and Montenegro.

In the work of the Constitution Commission we mention this agreement almost every ten minutes, we sometimes read it in different ways when it comes to certain sentences and stipulations, but we also read it in essentially different ways when it comes to its spirit, its essence, and as it is an agreement I will use a word which comes for constitutional law, its cause. *Causa*, as *causa finalis*, as an objective which is intended.

Therefore, during the work on the constitutional charter, in the work of the

Constitutional Commission and its sub-commission which works on the charter on daily basis, it happens that the Belgrade Agreement is used in fact to defend, change or achieve in the text of the future constitutional charter at least two – or even more – positions, and this is done in a way that these two texts seem like two banks of a river, whose destiny is never to meet.



It is quite certain that the Belgrade Agreement is an obliging document that had been signed and adopted, and it is obliging by the fact that it has been confirmed by the parliaments of the present republics and by the federal parliament, which have also appointed this Constitutional Commission.

I would also say that the Belgrade Agreement is obliging also in an essential sense. It is very probable that the Belgrade Agreement, in the form in which it is signed, was not signed

arbitrarily, under pressure, but that it represents the minimum common denominator of the political wills of its signatories and political forces standing behind the signatories, meaning in essence all major political forces who confirm the will of citizens in Serbia and Montenegro and in the present, partly limited or not at all functioning common state.

If the Agreement (The Belgrade Agreement) is the minimum common denominator, than the members of the Constitutional Commission should not forget (and in my humble personal view they do sometimes forget) that the Agreement is not a constitutional charter. It does not include, and it cannot include, all the rules that a charter must include, if nothing else than for the reason that the agreement stipulates that the constitutional charter must be drawn.

If the Belgrade Agreement were a self-sufficient document, than it would be enough to say in it, by changing it into several, say a dozen or so articles, and say »This is the constitutional charter, it only needs to be formally restructured!«

If the starting positions are taken in this manner and if by deduction we want to deduce rules of constitutional character, each individual rule contains in itself the burden of contradictions, which is included in the fact that the Agreement is a unity of partly different political wills.

Therefore, no rules offered in this way could express the full character of the Agreement, nor could it be an operative rule.

It seems to me that the authors of the »Draft by the Venice Commission« used a better methodology. Their method was predominantly inductive, and it only included the control of adopted or recommended solutions from the Starting Principles.

So, the individual rules of this draft were not by simple deduction taken from the Belgrade Agreement but based on the spirit of the Belgrade Agreement the new rules were made and their viability was tested against the spirit of the Belgrade Agreement.

This method was not used in the work of the Constitutional Commission so far. Therefore, although a lot of effort has been invested, and although tolerance dominates the work of the commission, the results achieved so far do not encourage us to express full optimism.

There was a lot of readiness to provide arguments for different points of view, but there was not always sufficient patience to hear the arguments presented by others.

I will close this brief initial statement by saying that in the second reading of what has been done so far, we will follow a track which is the only logical track to follow when working on a document of a legal and constitutional nature. Without it, our work will be a failure.

Thank you.

## *SLOBODAN GAVRILOVIĆ*

Ladies and Gentlemen, what the sub-commission has done so far and what might be worth noting, it that we are very near to the end of the first reading of the constitutional charter. We still have to cover the closing articles and basic principles. After we do that, we will go on to the second cycle of adjustments.

Remarks that have been heard over the past days, saying that the commission is working very slowly and badly, are not quite adequate.

I would like to say that we have been working for three weeks only. To cover such a voluminous document in three weeks, and to deal with completely opposite positions, in most cases, is a valuable success and result. Under normal circumstances, even if we had full agreement between participants, such work would require a longer time. Literally speaking, we work every day, from 11 in the morning to 7 in the evening. If we were working without stopping, it would perhaps be quicker, but worse.

I will speak of the legal problems present in our work.

The differences in the offered concepts presented during the work of the sub-commission and the Constitutional Commission, stem from different notions about the character of the state, on one side, I would say, there is a tendency to define the state as a state which has international legal subjectivity as a state externally, while internally in fact it is just a technical service or a

coordinator of certain functions of the two states. It is a very serious problem.

The following issues must be resolved:

Is there a possibility that we can be a state externally, and something else internally?

It is normal for a state union, irrespective of its character (and the one we are speaking about is certainly a complex state) to have a hierarchy of legal norms in those fields in which such a state union has competences?

The second issue, which results from the previous one, relates to the competences of such state institutions as are listed in the Agreement. Are these competences original or transferred competences? Irrespective of this difference, if we take it that the member states are owners of full sovereignty, in the Constitutional Charter by the text whereby we entrust certain functions to the state union, this transfer of sovereignty can not be made conditional by later co-ordination, which would mean that the minister is a »postman« and not a functional actor in a unique state administration.

Such competences of institutions are very narrow in comparison to the previous state of things, and they are brought down to only five ministries. This creates new, additional difficulties.

Those who deal with foreign trade or other forms of international relations, will know very well that in various fields there is need in cases where you have a state which has international legal subjectivity as a signatory, as a guarantor for certain deals that are signed internationally. So it can not be

narrowed by the simple wish of one or another member states, or by the will of the state union itself, if they want to have a functioning administration at that level of the state union.

This also refers to some other institutions, which truly are not specified in the Belgrade Agreement. There is need for us to agree on this issue, which is not simple.

For instance, it refers to human rights. As with other parts of the Constitutional Charter, it is a question whether human rights will be defined and, partly, protected at the level of the state union, as foreseen by establishing the Ministry for the Protection of Human Rights, which also foresees the adoption of a charter on human rights, as proposed by the Venice Commission, or according to some proposals from within.

In our opinion, in that case the ombudsman would be the body, which is not mentioned in the Belgrade Agreement, but is very much needed and welcome, because more protection is not a problem, and lack of protection is always bad. Of course, it does not exclude the possibility that member states might have their own bodies in this field, according to their wish on how they want to arrange that field.

The next issue is the decision-making process and protection mechanisms for the protection of member states, which are very important, as they unite into a state union which are completely different in many different ways: in their economic strength, in the number of population, and in many other features.

It is therefore important that the decision-making process and the protection of interests of member states be defined through institutions of the state union. The basis of this sometimes is parity, as in case of ministries; as in the case of decision-making; as in the case of the Court of the state union; or positive discrimination in relation to the number of delegates and the decision-making process in the parliament of the state union; like in the case of election and appointment of some important officials like the president of the state union, etc.

In this respect it is very important to state (and here I agree completely with what Professor Mićunović has said before) that we have very bad past experience with our former dictator regimes. Whatever we call them, it is a fact that for many decades we were living under non-democratic institutions.

The president of the state union is vested with enormous powers because he is at the same time presiding over and chairing the work of ministers. On the one hand, this is a functional approach and good for a state union, for its political stability. But I am afraid that without clear limits and control this will be turned into something contrary, and that it would not serve its principle aim, at least speaking from the experience that we have with our local political mentalities.

The next issue are the appendices.

The Constitutional Charter, in my opinion, must necessarily have certain appendices, containing temporal provisions.

The Belgrade Agreement starts from the necessity to harmonize the different levels of economic development and the different political systems in Serbia and Montenegro, irrespective of whether it is more advanced in one or the other member state. This must, objectively, be taken as a starting principle. However, this can not be stipulated in the Charter itself, but in one of its appendices which will identify the periods for harmonization in certain fields, for instance in the field of economy, as the most important one; or in the field of the market – a single, internal, common market; in the field of customs, trade and other fields, having in mind also the same factors that limit us. For instance, the World Trade Organization (or some other organization), where we appear as one partner; we need harmonization within our state union, which also relates to numerous other issues, which can be harmonized.

For instance, the co-ordination council need not be specified in the Constitution, but it can be specified in an appendix. In a period in which we are »loosening up, relaxing things«, because of our previous experience, and attempting to regain normal confidence, we would also need some form of co-ordination council, consisting possibly of presidents of the two member states and the president of the state union, and perhaps some other members as well, so as to somewhat »soften« this part.

I would remind you that in this region we have very negative experience with political dialogue. We have very bad experience with political compromise, and very bad experience in making a success of implementing objectives

when we commence from different starting points.

In this sense, mediation on behalf of the European Union and other players will be essential. It is not just a question of approach, but also a question of a long tradition, mentality, and negative political experience.

If we wish to come up with a constitutional charter that will have the support of the public, I would like to appeal that the mass media both in Serbia and Montenegro be opened up for this kind of a constitutional debate and all issues relevant to it.

I must say that in state-owned media this Constitutional Commission is less present than a »flea market«.

Thank you.

***DRAGAN KUJOVIĆ***

Thank you Ms Woodward! Thank also to all participants.

The time seems much more suitable for holidays. But it also seems that we cannot afford to choose.

I join all those who think that the agreement between Belgrade and Podgorica is a new way of opening up dialogue and coming to an agreement in this region, that it is promising that Serbia and Montenegro will be accessing the European Union in a civilized way.

The Belgrade – Podgorica agreement also promises that democratisation in this region will proceed much quicker and much better than was the case until recently.

Certainly, full implementation of the Belgrade Agreement, and its full and strict translation into a constitutional charter of the new state union of Serbia and Montenegro will be the safest way to introduce European standards in the functioning of Serbia and Montenegro, the governments in them, the relations between them and all other issues relevant to the future state union of Montenegro and Serbia or Serbia and Montenegro.

Full implementation of the Belgrade Agreement is a guarantee that the reform processes will proceed more quickly, that democratic standards will be adopted, in both Serbia and Montenegro, and the slowness in all of these processes, which lead us to Europe, will be eliminated, just as all obstacles will be eliminated or at least reduced.

As a member of the Constitutional Commission I wish to express my personal readiness, hopefully as all other members, to come up as soon as possible with this new constitutional document, which we call the Constitutional Charter of the new state union.



Of course, immediate, strict and full translation of the Agreement signed in 14 March this year into the Constitutional Charter is the fundamental guarantee that we will have a document that will be adopted by both relevant parliaments.

I do not think that the signatories of the Agreement of 14 March can any longer keep the agreement to themselves, as their property and govern it. It has gone through parliaments. The parliaments have adopted that document. Now the signatories can only insist on its fast and high-quality implementation, and they cannot, as someone suggested, engage in

writing the charter or insist on the way in which the Agreement is translated into the Charter.

The Charter will have the form and contents as dictated by the Agreement. If it is different in any way, if it goes beyond the framework of the Belgrade Agreement, it will not be adopted by the parliaments and we will have nothing of our agreement.

The Parliament of Montenegro, like the Parliament of Serbia as well, or a part of the Parliament of Serbia, or individual parties, has offered one draft of the constitutional charter.

The solutions in this draft, which I confirm are in accordance with the Agreement, provide that the European Union and other members of the international community have one single address of the state union through which to communicate with it and cooperate with Serbia and Montenegro.

This solution also provides that through these institutions, as stated in the draft constitutional charter, the delegation of the Parliament of Montenegro is also the coordinator of activities between the institutions of Serbia and Montenegro, as member states, internally.

By the power of these norms, by our proposal of the constitutional charter, the establishment of democratic institutions of the state union is made possible. I do not mean to say that this is not also true of other proposed drafts. But, I emphasize that in some fundamental aspects we differ, as I stated also at the beginning.

We have publicly invited all experts, both from European Union and from

Serbia and Montenegro to point out the items in which the draft proposed by the Parliament of Montenegro is contrary to the Agreement. It has been almost three weeks since and we have received no such comments from experts, and now I am not speaking about the work of the sub-commission or the Constitutional Commission. Based on receiving any argued comment that the draft proposed by the Parliament of Montenegro is deviating from the Agreement, we would make the necessary amendments.

I emphasize that any rejection to accept and respect the essence of the Agreement would mean taking upon oneself the responsibility of breaking down this document. Anyone who would approach the work on the constitutional charter in that way of radical deviations from the Agreement, would thereby be taking upon himself the responsibility for failure of negotiations or for failure in establishing the future state union.

Evidence that the respect of the spirit and words of the Agreement leads to a sure agreement is that fact that the two governments – the Government of Montenegro and the Government of Serbia – have reached an agreement with respect to economic field. Thanks to the fact that they fully respected the spirit and the text of the Agreement, the two governments between themselves made an understanding relevant to the economic field. This could be an excellent, solid basis for work of the Constitutional Commission so that at least we could reach agreement on that part of the charter, without major problems and differences in opinions.

