



**Politics, interests and the future of Yugoslavia:
an Agenda for Dialogue**

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SUMMARY OF RECOMMENDATIONS

This paper examines the current constitutional debate on the future of the Federal Republic of Yugoslavia, and finds it to be frustratingly short on content. It considers the motivations of the major political players and explores the interests of various groups of citizens. It finds that there may be a real opportunity for ambitious forward-looking politicians in both Serbia and Montenegro who are willing to address the concrete concerns of those citizens most directly affected by the constitutional debate, even prior to a referendum in Montenegro.

A referendum on Montenegrin independence, as announced by the Montenegrin authorities for spring 2002, cannot serve as a substitute for substantive dialogue between Belgrade and Podgorica. A referendum is likely to bring one of only two outcomes: a narrow majority in favour of independence, or a narrow majority against. Neither result would answer the question of how to establish a functioning federation, or how economic and social relations between Serbia and Montenegro should develop in the event of separation. Unless there is serious dialogue in the meantime, a referendum will leave the real issues unresolved.

This is the moment to begin serious inter-republican dialogue and a search for common interests. For the outside world, this is the hour for mediation: offering the services of an honest broker helping to identify common ground in advance of any referendum. Our paper offers an *Agenda for Dialogue* to help stimulate this process. It suggests that a positive dialogue between Serbia and Montenegro, supported by the federation presidency, could be structured around three components:

- I. The first step would be to develop a **Joint Declaration of Core Principles** which are to be respected in any constitutional settlement. Such a declaration could be debated and adopted as a resolution in the Republican and FRY parliaments. The focus should be on reassuring ordinary citizens and facilitating a more constructive public debate. These core principles might include:
 - i) The border between Serbia and Montenegro will remain open, facilitating free movement of people between the two republics.
 - ii) All sides commit themselves to adopting liberal citizenship arrangements. Citizens of the Republics of Serbia and Montenegro will have rights equivalent to those exercised across the European Union by citizens of EU member states. Protection of the rights of ownership of property and businesses will be guaranteed in both republics. There will be free choice of residence, including for the purposes of study or retirement.
 - iii) The current business environment between Serbia and Montenegro must not be allowed to deteriorate any further. Joint efforts will be undertaken to ensure free movement of goods, services and labour, and to develop a co-ordinated approach to legislative reform that affects the business environment.
- II. In parallel with the development of a Joint Declaration on Core Principles, the two republics should set up inter-republican working groups to improve co-

ordination in practical areas, with the aim of delivering concrete benefits to citizens. It is remarkable that FRY has a special relations agreement with neighbouring Republika Srpska and a special envoy for relations with Kosovo, but that Serbia and Montenegro have no fora for inter-governmental co-operation. Suitable areas might include: institutionalised co-operation between law enforcement agencies; co-operation and co-ordination of reform efforts in areas of republican responsibility (judiciary, education, etc.); co-operation in the development of transport infrastructure, with a view to facilitating travel between the republics; co-operation in telecommunications to lower the costs of inter-republican communications; and continued co-operation in cultural and sporting affairs.

- III. The final and most complex phase of the dialogue would require an open debate on the main features which the two republics would expect from a new constitutional settlement. Rather than starting from theoretical constitutional considerations, these issues should focus on the three key areas which both republics agree should remain the province of joint institutions: defence; foreign policy; and economic union. The dialogue should concentrate on articulating common interests, designing credible decision-making mechanisms and identifying the financial basis for joint institutions.

~ Table of Contents ~

| | |
|--|-----------|
| <i>The Fata Morgana of a Referendum</i> | <i>1</i> |
| <i>Non-talks</i> | <i>3</i> |
| <i>Two proposals</i> | <i>4</i> |
| <i>Political interests in Belgrade</i> | <i>5</i> |
| <i>The Federation and the reform agenda</i> | <i>7</i> |
| <i>Yugoslavia's citizens</i> | <i>9</i> |
| Business | 10 |
| Travel | 11 |
| Telecommunications | 12 |
| Citizenship | 12 |
| Cultural links | 12 |
| <i>An Agenda for Dialogue</i> | <i>13</i> |
| 1. A statement of core principles | 14 |
| 2. Inter-governmental co-operation | 14 |
| 3. The three pillars of a new constitutional settlement | 15 |
| 3.1. Defence structures | 15 |
| 3.2. Foreign policy | 16 |
| 3.3. Economic union | 16 |
| <i>Conclusion</i> | <i>17</i> |

**POLITICS, INTERESTS AND THE FUTURE OF YUGOSLAVIA:
AN AGENDA FOR DIALOGUE**

The *Fata Morgana* of a Referendum

For much of the past year, the confused constitutional situation in the Federal Republic of Yugoslavia has left the Yugoslav federation trapped in limbo: neither one state nor two.¹ As Yugoslavia has sought to return to full membership of the international system, the costs of this unfortunate state of affairs have continued to rise.

After a series of unsuccessful efforts to initiate a dialogue between Belgrade and Podgorica on the future of the FRY, federal president Vojislav Kostunica, Montenegrin president Milo Djukanovic and Serbian prime minister Zoran Djindjic finally met on 26 October 2001, only to conclude that the two proposals of a union of sovereign states and a renegotiated federal compact were irreconcilable. “We have tried today to bring our two positions closer, and we concluded that this is not possible”, Kostunica announced after the meeting, adding that “this practically means that the Montenegrin public should vote on the issue in a referendum.”² According to Djukanovic, the parties agreed that “there is no need for a further exchange of arguments well-known to one and the other side and to the broader public. We agreed that continuing to waste time does not serve the interests of either Montenegro or Serbia in advancing our desire to create a European future and to set out on a road of constitutional procedures which meet democratic standards.”³

Over several years, the prospect of an independence referendum in Montenegro has been the *fata morgana* of Yugoslav politics – always on the horizon, somehow never getting any closer. The Montenegrin authorities have now announced a referendum on independence to take place in spring 2002. Given the threat of boycott by the opposition SNP and disagreement even among the pro-independence parties on basic questions such as the minimum turn-out required, it remains far from clear if and when the referendum will take place. However, even if it does go ahead, it will not resolve the deadlock in relations between Serbia and Montenegro, and cannot serve as a substitute for substantive dialogue between Belgrade and Podgorica.

If all segments of the Montenegrin electorate were to participate, the most likely outcomes are a slight majority in favour of independence, or a slight majority against. The Montenegrin leadership’s preferred outcome – a vote in favour – would not equate with a broad consensus within Montenegrin society, nor would it guarantee international support, nor deliver the union of “brotherly states” with Serbia which Djukanovic has promised the citizens of Montenegro. Conversely, a vote against

¹ In fact, the Federation is even stranger if one considers its third component, the UN-administered “territory” of Kosovo, with its own evolving set of core legislation, customs service and currency. The issue of how Kosovo could be included in talks on creating a “stable” constitutional order for the future is almost always set aside by participants. It is worth noting that all major political forces in Montenegro, including the pro-Yugoslav SNP, reject the idea of Kosovo becoming a third republic in any constitutional arrangement.

² *Transition online*, “Yugoslavia: Future Holds a Referendum”, in: Week in review, 23-29 October 2001.

³ *Vijesti*, “Djukanovic, Vujanovic, Kostunica, Djindjic i Labus zakljucili da nema dogovora ni o zajednickoj drzavi, ni o savezu suverenih drzava: Referendum na proljece”, 27 October 2001.

independence, although it may be welcomed in Serbia and abroad, would not dispose of the independence issue. Most importantly, it would not even begin to answer the question of what to do with the current, dysfunctional federation. As in the former Czechoslovakia, the key to whether the federation stands or falls lies in the choices made by political elites in the two republics.

This is not the first time in the history of the Third Yugoslavia that a referendum has been used as a substitute for serious constitutional debate. The Federal Republic of Yugoslavia (FRY) was proclaimed in haste in April 1992 on the ashes of socialist Yugoslavia (SFRY). It was built on the assertion that Serbia and Montenegro was the continuation of the former SFRY, from which the other four republics had unilaterally seceded – a proposition rejected by the international community, which treated the FRY as a new state. The constitution was drafted in haste by a small circle of experts and promulgated by an SFRY parliament from which most of the elected delegates had long gone. A referendum was held in Montenegro, but only on the question – do you want a common state with Serbia? – not on the constitution itself.⁴ In the absence of any real constitutional process, the new constitution simply replicated many features of the old Yugoslavia, particularly its heavy emphasis on equal representation and consensual decision-making in federal bodies. Only much later did anyone begin to consider whether this was appropriate in a highly asymmetrical, two-member federation, where one republic boasted over ninety percent of the population and economic resources.

Table 1: An asymmetrical federation⁵

| | Serbia | Montenegro | Total* |
|--------------------------|---------------|-------------------|---------------|
| Population | 92 % | 8 % | 8.4m |
| GDP (estimate) | 92.5 % | 7.5 % | DM 17,756m |
| Federal budget | 100 % | — | DM 1,529m |
| Yugoslav Army | 99 % | 1 %** | DM 1,071m |
| Seats in FRY Lower house | 78 % | 22 % | 138 |
| Seats in FRY Upper House | 50 % | 50 % | 40 |
| FRY government positions | 50 % | 50 % | 10 |

* excludes Kosovo

** contributions in kind by Montenegrin public-utility companies (electricity, water, etc.)

As it transpired, the new state never functioned as envisaged in the constitution. The federal structures were freely ignored by both Belgrade and Podgorica, and after 1998 were rapidly dismantled. As one Belgrade institute has said, “the Constitution was observed as ill as it was proclaimed, and most of all by those who proclaimed it”.⁶

⁴ See Bosko Mijatovic, Dragoljub Popovic, Slobodan Samardzic, *The Union of Serbia and Montenegro: Proposal for the constitutional reconstruction of the FRY*, Centre for Liberal-Democratic Studies, Belgrade, 2000, p. 3.

⁵ Sources: Statistical Yearbook of Yugoslavia 1998, p. 68; International Monetary Fund, Federal Republic of Yugoslavia. Request for a Stand-By Arrangement (p. 27, 36), Sluzbeni List Savezne Republike Jugoslavije, 73/711, 29 December 2000; Official Government website (www.gov.yu).

⁶ Ibid., p. 4.

To resolve the current constitutional confusion, the two sides will need to answer the questions that were not properly addressed in 1992. Is Serbia willing to share power on a parity basis with Montenegro? Are the Montenegrins prepared to renounce some autonomy in order to benefit from being part of a much larger economy? No referendum, particularly one held in only one republic without substantive alternatives on the table, will absolve the political leaders of the responsibility of answering these questions.

Non-talks

The joint admission of failure in October was preceded by a series of talks about talks which had ended, predictably enough, in disarray. On 19 September, federal president Kostunica sent out invitations for a meeting in Belgrade on the federal question. The Montenegrin president and prime minister refused to attend because of the presence of federal prime minister, Dragisa Pesic, a Montenegrin from the opposition SNP whose mandate is not recognised by the Montenegrin government. In the circumstances, Serbian prime minister Zoran Djindjic also announced that he saw no reason to participate.⁷ Kostunica accused Djindjic of being “insufficiently engaged in the preservation of the federal state, to put it mildly”,⁸ while Djindjic maintained that the meeting had been hastily organised and ill-prepared. “It should have been preceded by ten or more informal meetings to prepare the ground. We should take a step back so that officials can meet several times and reach agreements in principle on important subjects. Agreements cannot be made in front of the cameras.”⁹

So far, none of the leading politicians has been willing to take on a proactive role. Kostunica has declared that it is up to the Montenegrins to decide what he describes as a “Montenegrin-Montenegrin issue”.¹⁰ Slobodan Samardzic, constitutional adviser to Kostunica, commented in a recent interview:

“People want to see reforms, changes, some movement forward... If the federation survives – good, if Serbia becomes independent, which depends on Montenegro – this is also not a bad option. For this reason, DOS politicians have a good space for manoeuvring”.¹¹

This flexibility masks a surprising passivity in the face of an issue as basic as the survival of the state. At the same time Serbian premier Djindjic seems content to leave the lead to Kostunica, noting that “for as long as Kostunica has the initiative, I think we should give him a chance.”¹² Montenegrin president Djukanovic, openly committed to the goal of independence, has so far preferred to play for time, waiting for a more favourable political environment at home.

⁷ *Danas*, “Nisu dosli predsednik Crne Gore i republikski premijeri”, 20 September 2001, p. 1.

⁸ *VIP Daily News Report*, No. 2122, 24 September 2001.

⁹ *Danas*, “Nisu dosli predsednik Crne Gore i republikski premijeri”, 20 September 2001, p. 1.

¹⁰ *Dan*, “Nedu zakazivati sastanke kao Milutinovic Albancima”, 20 September 2001, p. 5.

¹¹ *Vreme*, 12 July 2001, p. 16.

¹² *Vijesti*, “Djindjic: Bez Djukanovica susret izlisan i ne znam sta je tu neuvjerljivo”, 20 September 2001, p. 2.

Meanwhile, as the leading politicians quarrel, each successive political crisis drives the two republics further apart. If in the summer of 2000 it looked as though the FRY might be heading for violent collapse, the prognosis is now less dramatic but not much more positive: a steady deterioration in relations, leading to a messy and protracted divorce.

Two proposals

There are two proposals currently on the table. In 1999, the Montenegrin government presented a platform on new relations between the two republics, which was then reformulated in December 2000. It offers a union of two independent states. The response from Kostunica in January 2001 advocated restructuring the existing federation. The principal elements of the Kostunica document were repeated in a new proposal by DOS representatives and the Montenegrin “Together for Yugoslavia” coalition, approved by the federal parliament on 30 August 2001.

Both of these proposals tend to skirt around the more difficult issues. The Montenegrin document foresees a union of two independent states with a common foreign and defence policy and a common market, including joint monetary and customs systems.¹³ In these areas, the role of the central bodies – a unicameral assembly, a president and a council of ministers – would be limited to the co-ordination or harmonisation of policy between the two member states. Central regulation is not contemplated. The Montenegrin proposal begs the question of whether Montenegro is really willing to compromise in areas where its interests diverge from Serbia’s – for example, by abandoning its independent currency and central bank, or raising its customs rates to Serbian levels. Without prior agreement on the decision-making procedures, weak central organs would quickly become deadlocked.

The Serbian document foresees a federal president and government elected by a bicameral federal parliament, a federal court, a national bank, and an ombudsman. The federation would have exclusive responsibility for foreign policy, defence, border control, the monetary system, customs, contracts and tort law, securities and judicial and administrative procedure. The federal assembly would lay down basic principles in a number of other areas, including human rights protection, property relations, transportation, communications, taxation, banking and foreign trade, which would then be elaborated further by the republican parliaments.¹⁴

The Serbian document glosses over the problem of how power would be shared between the two republics at federal level. How would the two republics contribute to the formulation of a “common” foreign policy? Would legislation to guarantee the common market require approval by both republican governments? Would the Montenegrin members of the Supreme Defence Council have a right of veto over the deployment of the Yugoslav army, even though 95 percent of the budget and personnel would come from Serbia?

¹³ Government of Montenegro, “Platform for talks with the Government of Serbia on new relations between the two states”, in: *CEPS Europa South-East Monitor*, No. 19, January 2000.

¹⁴ “Together for Yugoslavia” Coalition & Democratic Opposition of Serbia (DOS), *Proceeding Points for a Joint Platform on Constitutional Restructuring of the FRY*, August 2001.

The shortcomings in the Serbian proposal raise the question of whether the pro-Yugoslav forces in Serbia expect to be able to dominate the federal institutions, as they have since their inception, or whether they are really willing to share equal power with the Montenegrins, as envisaged in the 1992 constitution. If one measures the Belgrade establishment by its deeds, one gets the impression that power-sharing is not on the agenda.

The Milosevic-era practice of overruling the Montenegrin representatives whenever they fail to support the Serbian interest has continued under the new regime. The most dramatic example was the transfer of Slobodan Milosevic to the Hague Tribunal in June 2001. The Montenegrin federal representatives, led by the pro-Yugoslav and formerly pro-Milosevic Socialist People's Party (SNP), refused to support the passage of a law on co-operation with the Tribunal, fearing a backlash from their own constituency in Montenegro. With the donors' conference approaching on 29 June, the DOS ministers in the federal government adopted a governmental decree on co-operation, which was then suspended by the federal constitutional court pending a review of its constitutionality. Under heavy pressure to resolve the matter before the donors' conference, the Serbian government bypassed the federal constitutional court by applying the statute of the Hague Tribunal directly as a general rule of international law,¹⁵ and by extension applying the Serbian republican constitution over the federal constitution. The decision was signed by Serbian prime minister Djindjic at an emergency session of the Serbian government on 28 June and printed in the official gazette on the same day.¹⁶ As widely reported, the extradition was carried out in time to allow the donors' conference to proceed.

The extradition crisis and a number of similar incidents¹⁷ illustrate graphically the Serbian attitude to the federation whenever the interests of the Serbian and Montenegrin representatives diverge. The Serbian government may support a fair-weather federation, but its willingness to subject its vital interests to a Montenegrin veto is in doubt. This structural dilemma lies at the heart of the Yugoslav question, contradicting the notion that the future of the federation is for the Montenegrins to decide.

Political interests in Belgrade

Given the division within Montenegrin society over the question of independence, a solution from the Montenegrin side looks unlikely, even if a referendum proceeds in the spring. So why are Serbian politicians unwilling to take the initiative? The

¹⁵ Article 16, section 2, of the FRY Constitution states that all "generally adopted rules of the international law are a part of the internal law of the FRY". See *Vreme*, "Drzavni udar bez drzave", 12 July 2001, p. 20-23.

¹⁶ *Sluzbeni glasnik Republike Srbije*, Belgrade 28 June 2001, nr. 37/1394.

¹⁷ In another recent example, the deployment of the Yugoslav army into the ground security zone on the Kosovo border was carried out without the approval of the Supreme Defence Council – and thereby without the Montenegrins. There is no provision in the constitution for the federal president to command the army in the absence of prior council decisions. See Miroslav Hadzic, "Civilian control of the Yugoslav army", in Miroslav Hadzic (ed.), *Civilian Control of the Army and Police*, Belgrade, Media Center, 2000, p. 66.

answer seems to be that, in some circles, keeping the federation in limbo seems to offer short-term, tactical advantages.

Serbian prime minister Zoran Djindjic, the strong man at republican level, professes to be largely indifferent to the fate of the federation. When accused of this by Kostunica, he responded: “the fact is that what is today called the federal government is only a duplicate of the Serbian government, since it has no jurisdiction over Montenegrin territory. I regret that this is so, but it is through no fault of mine. This is not within my area of competence. I have an obligation as prime minister to protect the interests of the citizens of Serbia and I do not want to view a fiction as God-given.”¹⁸

In the meantime, Djindjic benefits from the *status quo*. In an increasingly public and acrimonious political contest with Yugoslav president Kostunica, the current constitutional confusion works to his advantage. He has built an extremely strong power base at republican level, where he controls the key institutions. Djindjic is able to command a majority in the Serbian parliament without the support of Kostunica’s Democratic Party of Serbia. In the Serbian government, the division of posts among the 18 DOS parties left Kostunica’s party with only the health ministry and a single deputy prime minister, before it withdrew from the government altogether in mid-August. Kostunica is unable to demand a stronger position within the Serbian government without alienating the smaller DOS parties.

This leaves Kostunica paying the political price for the *status quo*. On the one hand, he is Yugoslavia’s most vocal supporter, yet unable to arrest its slide into irrelevance. On the other hand, he is the one Serbian politician most clearly disadvantaged by the current arrangements. Despite being the leader of the most popular political party in the country, he has little direct power and is easily marginalised by his DOS “allies” at Serbian level. He seems increasingly frustrated by his limited access to the real corridors of power. He has openly attacked the Serbian government’s record: “Reforms have neither been carried out nor launched. The government is not acting adequately, it is bulky, insufficiently operative, and it does not pay much heed to the principles of a legal state in its decrees and conclusions.”¹⁹ He has also fought to increase his informal influence over republican institutions, particularly the security services.

However, so long as Kostunica remains president of a purely fictional federation, these conflicts are mere shadow-boxing. Djindjic pursues his own agenda undeterred, while Kostunica’s political star slowly wanes. In December 2000, Kostunica’s personal approval rating sat at 59.3 percent, dwarfing Djindjic’s 5.7 percent. By August 2001, Kostunica’s approval had declined to 32.1 percent, while Djindjic’s had climbed to 13.1 percent.²⁰

If the Yugoslav federation were to be dissolved, or restructured to limit its powers even further, Kostunica may be tempted to contest the Serbian presidency at the next election. Djindjic is in no hurry to bring this about. For his part, Kostunica remains

¹⁸ *VIP Daily News Report*, No. 2122, 24 September 2001.

¹⁹ *Ibid.*

²⁰ Center for Policy Studies, *Javno mnenje Srbije: Na pocetku novih deoba*, Belgrade, August 2001, p. 10.

immobilised by his ideological commitment to Yugoslavia and his refusal to give ground to Djukanovic in the constitutional debate.

The Federation and the reform agenda

One group that may become drawn further into the constitutional fray are the pragmatic and influential advocates of economic reform in Belgrade, whose most prominent face is the deputy federal prime minister, Miroљjub Labus.

The reformist wing of the Belgrade political establishment, led by figures from the influential economic think-tank G17, entered government largely agnostic on the Montenegrin question, but determined to advance the goal of economic reform and oversee the country's reintegration into the international financial institutions. A year into the process, it has become apparent that the constitutional confusion is acting as a brake on the reform process, particularly concerning Yugoslavia's external economic relations.

At present, the Yugoslav state has no common customs or monetary system, no joint fiscal system and no capacity to implement a common economic policy. The two republics (and Kosovo) each collect their own revenues and control by far the largest share of public funds (see Table 2). Even formally, the federation is largely dependent on republican institutions to implement its decisions.

Table 2: 2001 budgets in FRY (million DM)²¹

| Planned expenditures 2001 | Federation | Serbia | Montenegro |
|---------------------------------------|----------------------|----------------|-------------------------|
| Total budget expenditures | 1,529.1 | 4,312.3 | 438.2 |
| <i>Defence</i> | <i>1,071.0</i> | - | - |
| <i>Foreign Affairs</i> | <i>90.6</i> | - | <i>5.5</i> |
| <i>Interior Affairs</i> | <i>10.7</i> | <i>566.7</i> | <i>54.3</i> |
| <i>Social Affairs, Labour, Health</i> | <i>119.6</i> | <i>598.5</i> | <i>58.4</i> |
| <i>Education, Science, Sports</i> | <i>2.4</i> | <i>807.5</i> | <i>140.2</i> |
| <i>Customs Administration</i> | <i>28.9</i> | - | <i>4.0</i> |
| Extra-budgetary expenditures | <i>minor</i> | 4,790.2 | 520.0 ^a |
| <i>Pension Funds</i> | <i>minor</i> | <i>2,433.4</i> | <i>300.0</i> |
| <i>Health Funds</i> | <i>minor</i> | <i>1,265.4</i> | <i>130.6</i> |
| <i>Municipal budgets</i> | - | <i>933.0</i> | <i>76.7^b</i> |
| Total expenditures | 1,600.0 ^a | 9,102.5 | 958.2 ^a |

a. estimate

b. data for 2000

²¹ Sources: *Sluzbeni list Savezne Republike Jugoslavije*, No. 73/711, 29 December 2000; *Sluzbeni Glasnik Republike Srbije*, No. 21/2001, reprinted in: *Novi propisi iz oblasti javnih finansija Republike Srbije*, 1 Kniga, Belgrade, Sluzbeni Glasnik, 2001, p. 119-138; *Sluzbeni list Republike Crne Gore*, No. 59/575, 27 December 2000; *Ekonomist magazin*, No. 43, 19 March 2001, pp. 12-15; *Monet*, No. 6, July 2001, pp. 28-31.

This makes it difficult for the international financial institutions to offer aid which is conditional on economic reform. Although only the federation is authorised to represent the state at the international level, it is unable to make credible policy commitments for the state as a whole.

For the time being, the international financial institutions are circumventing the problem by treating the two republics as separate economic units. Most assistance programmes, including those of major donors such as the European Union, are clearly allocated to one or the other republic. At the donor's conference for FRY on 29 June, the two republics presented separate reform programmes. Kosovo was not included. The letter of intent for the IMF Stand-By Arrangement was signed not only by the federal minister for foreign economic relations Miroljub Labus and the governor of the National Bank of Yugoslavia Mladjan Dinkic, but also by the ministers of finance of Serbia and Montenegro, Bozidar Djelic and Miroslav Ivanisevic. The agreement sets out different goals and obligations for each republic. It notes the process of trade liberalisation and tariff reform underway in Serbia, based on *federal* legislation, and makes separate reference to a new Foreign Trade and Customs Law in Montenegro.²² Of the 45 substantive paragraphs in the agreement, most apply exclusively to Serbia or deal with federal organs such as the National Bank of Yugoslavia which currently operate only within Serbia. There are nine provisions applying exclusively to Montenegro, and only one paragraph that applies to both republics, concerning the structure of social programmes.

This pragmatic arrangement raises the question of what would happen if one republic were to fall behind on its reform commitments or its debt-service obligations. If Yugoslavia is treated as a common state, both republics would be punished for the failures of either. The IMF Stand-By Arrangement seeks to avoid these pitfalls by imposing relatively light reform obligations on Montenegro. Out of 22 loan conditions, only 3 are addressed to Montenegro's internal problems.²³ However, relieving Montenegro from external reform pressure only increases the likelihood that the two republics will pursue separate reform paths, exacerbating the problem over the longer term.

The only important issues addressed at the federal level relate to foreign debt and assets abroad. Even this is proving complicated. While both Serbian and Montenegrin representatives have attempted to skirt the issue of Kosovo in their relations with international financial institutions, the issue of servicing old debt has returned it to the agenda. The World Bank has requested that the FRY authorities come up with a repayment mechanism for a debt consolidation loan. Kosovo's share of Yugoslavia's total World Bank debt of US \$1,781 million comes to US \$404 million. Serbia and Montenegro have agreed to provide counter-guarantees for their shares of the loan, but it remains unclear who will take on Kosovo's obligations. The federal government is reluctant to assume Kosovo's debt when it is unable to generate any revenue from the province, while the United Nations, as Kosovo's interim

²² "Memorandum of Economic and Financial policies", in: *IMF Country Report* No. 01/93, June 2001, Appendix IV, pp. 52-67, paragraphs 37 and 38.

²³ "Federal Republic of Yugoslavia: Stand-By Arrangement, April 2001-March 2002. Prior Actions, Structural Performance Criteria, and Structural Benchmarks", in: *IMF Country Report* No. 01/93, June 2001, Appendix IV, pp. 69-71.

administration, is unlikely to agree to assume debt incurred by the previous regime. Resolving FRY's external economic relations is therefore no simple matter.

Problems have also begun to emerge in other areas of international co-operation. Negotiations with Interpol have raised the problem that the federal authorities have no influence over Montenegrin police in dealing with the stolen car trade. It is difficult to see how FRY could be admitted to NATO's Partnership for Peace programme while it retains two separate military forces with unclear lines of civilian control. The FRY cannot advance to serious negotiations with the European Union for a Stabilisation and Association Agreement before the problem of co-ordination of currencies, customs and macro-economic policy has been resolved.

As a result, for Labus and others concerned with the process of economic transition, the costs of maintaining a fictional federation are becoming untenable.²⁴ The problems of parcelling out foreign debt and fulfilling the obligations of membership of international fora can only become more awkward over time. For those whose principal focus is Serbia's own reform path, the current federation may come to seem a liability.

Yugoslavia's citizens

What do the citizens of the two republics make of all this? Opinion polls suggest that a slight majority of Montenegrin citizens favours independence, while support for the federal state in Serbia remains at a solid majority, although it has declined slightly in recent months.²⁵ The problem with such polls is that the questions are posed at too abstract a level, giving little guidance as to what the respondents actually meant.

For example, a recent poll in Serbia suggested that citizens rated good salaries, peace and political stability, and preventing crime and corruption as their foremost concerns.²⁶ "Resolution of the national question" was ranked as the least important of ten options, and even "preservation of Serbian borders" was considered among the top three issues by only 15 percent of respondents. In another poll which asked Montenegrins to name the most important issue influencing their decision of which party to support, the status question came second to concerns about the republic's economic situation.²⁷

One poll which addressed the prospect of separation found that, in both republics, a majority of people expect relations between Serbia and Montenegro to deteriorate in the event of Montenegrin independence (see table 3). Some 58 percent of Serbian citizens (and 47 percent of Montenegrins) expect that independence would lead to problems in crossing the border, 43 percent expect it to weaken family ties, and 44

²⁴ *Weekly Economic Bulletin* (VIP News Services), No. 270, News in brief, 18 October 2001.

²⁵ See polls conducted by the Center for Democracy and Human Rights (Podgorica), the National Democratic Institute (Podgorica), Institut drustvenih nauka/ Centar za politoloska istrazivanja i javno mnenje (Belgrade), Centar za politoloska istrazivanja (Belgrade).

²⁶ These three issues were rated as among the first three priority areas by 60 percent, 47 percent and 41 percent, respectively: Center for Policy Studies, *Javno mnenje Srbije. Na pocetku novih deoba*, Belgrade, August 2001, p. 26.

²⁷ National Democratic Institute, *Key Findings - Track Three*, 26 September 2001.

percent expect sharp conflicts within Montenegrin society. Perhaps most alarming is the fear of 31 percent of Serbian citizens and 18 percent of Montenegrins that independence might trigger a mass movement of population.²⁸

In other words, public opinion on the status question is strongly influenced by people's perceptions of how it might impact on their own lives. However, these perceptions reflect the confused state of the public debate, and are therefore unreliable guides for action. It is the responsibility of political elites and opinion makers in both republics to articulate the choices involved and their implications for ordinary citizens.

Table 3: Citizens' expectations for the immediate future in the event of Montenegrin independence²⁹

| | Serbia | | | Montenegro | | |
|---|--------|----|----|------------|----|----|
| | Yes | No | ? | Yes | No | ? |
| Shift of Serbia towards other countries | 56 | 19 | 25 | 49 | 18 | 32 |
| Better relations between Serbia and Montenegro | 16 | 60 | 24 | 33 | 48 | 19 |
| Problems with crossing the Serbian-Montenegrin border (passports, visas, customs) | 58 | 25 | 17 | 47 | 33 | 20 |
| Problems within Serbia with Vojvodina and Sandzak | 52 | 26 | 22 | 38 | 26 | 36 |
| Weakening of family ties | 43 | 43 | 14 | 31 | 54 | 15 |
| Sharp conflicts between Montenegrin citizens | 44 | 31 | 25 | 32 | 54 | 14 |
| Mass movement of populations | 31 | 47 | 22 | 18 | 58 | 24 |

To begin this process, the first step is to unpack the sovereignty problem into its component issues, and identify the groups of citizens whose interests are most affected. These might include the following.

Business

A working paper published by the Centre for Liberal-Democratic Studies in Belgrade in 2000 concluded: "Not one important feature of the common market and the common economy is functioning properly: there is no free circulation of money and goods, no common customs system, no common fiscal system, no common monetary system, no common foreign exchange and foreign trade system."³⁰ Companies attempting to do business across the republican boundary face costly procedures for bank transfers and complex systems for importing goods via the other republic.

While financial transfers between the republics were impossible during the last phase of Milosevic's rule, various temporary arrangements are now in place, but with

²⁸ Institut društvenih nauka/ Centar za politička istraživanja i javno mnjenje, *Odnosi Srbije i Crne Gore – Prolece 2001*, Belgrade, April 2001, p. 36.

²⁹ Adapted from Institut društvenih nauka/ Centar za politička istraživanja i javno mnjenje, *Odnosi Srbije i Crne Gore – Prolece 2001*, Belgrade, April 2001, p. 36.

³⁰ Bosko Mijatovic, Dragoljub Popovic, Slobodan Samardzic, *The Union of Serbia and Montenegro: Proposal for the constitutional reconstruction of the FRY*, Centre for Liberal-Democratic Studies, Belgrade, 2000, p. 5.

parallel currencies in operation, they are cumbersome and expensive.³¹ A Montenegrin company which wishes to pay a counterpart in Serbia uses a Montenegrin bank to transfer German marks via a foreign bank (usually German) to a commercial bank in Serbia. The Serbian bank is then obliged to sell these German marks to the National Bank of Yugoslavia, which transfers back an equivalent sum in Yugoslav dinars according to the daily exchange rate. In reverse, a Serbian bank can purchase German marks on the inter-bank foreign currency market, and then transfer them via an intermediate European bank to a Montenegrin beneficiary. Montenegrin banks charge 0.6 to 1 percent for transfers to Serbia, compared to transfer costs of 0.3 percent within Montenegro.³²

Parallel customs systems pose additional obstacles, particularly for trading companies which comprise nearly half of registered enterprises in both republics.³³ In February 2001, the federal customs administration established checkpoints at the Serbian-Montenegrin border in order to protect against imports entering Serbia via Montenegro, which has significantly lower tariffs.³⁴ Goods which enter Montenegro destined for Serbia are exempt from Montenegrin customs, but should pay federal tariffs at the Montenegrin-Serbian border. A similar arrangement should apply to Montenegrin imports entering via Serbia, but the Montenegrin customs administration claims to be aware of few cases where Montenegrin importers were exempted from federal customs at the Serbian border. As the Montenegrin authorities do not maintain checkpoints on the republican border, they are unable to check which goods have entered Montenegro from Serbia and whether goods destined for Serbia have in fact left Montenegro, creating obvious opportunities for customs fraud.

Both republics have an obvious interest in re-establishing a common economic space. A World Bank report prepared for the June donors' conference noted that:

“there is broad recognition in both Republics that the design of reforms in areas crucial for the free inter-republican movement of goods, services and factors of production should be fully compatible with the need to create a well-functioning single economic space regardless of the ultimate political arrangements.”³⁵

However, for the time being the federal government continues to threaten Montenegro with economic isolation if it becomes independent.

Travel

In the ‘political geography’ of the Yugoslav federation, the two republics have become increasingly distant from each other. Transport and telecommunications infrastructure, which together with all other public services are operated by the

³¹ These are regulated by a federal law – “Zakon o privremenom obavljanju odredenih poslova platnog prometa na teritoriji Savezne Republike Jugoslavije”, in: *Sluzbeni List SRJ*, Year 50, Nr. 9/108, 2 March 2001 – and a decree of the Montenegrin Central Bank - “Odluku o obavljanju platnog prometa sa Republikom Srbijom i Kosovo i Metohijom”, 3 April 2001.

³² Information from the Central Bank of Montenegro.

³³ *Statistical Yearbook of Yugoslavia 1998*, Belgrade, Savremena administracija, 1998, p. 53.

³⁴ Federal tariff rates were lowered in the spring, but are still considerably higher than those in Montenegro (*Ekonomist magazin*, 23 April 2001, pp. 27-30).

³⁵ World Bank, *Federal Republic of Yugoslavia. Breaking with the Past: The Path to Stability and Growth*, Volume I, June 2001, p. ix.

republics, are in a poor state of repair, and user costs continue to rise. The 470 kilometres of winding road between Belgrade and Podgorica takes seven to eight hours to drive – longer than the 600 kilometres from Belgrade to Vienna. Buses and trains between the capitals take up to 10 hours. For rail travel between Belgrade and Podgorica, it is not possible to purchase a round-trip ticket because the two railways have been unable to agree on a system for sharing revenues. There are currently five daily flights connecting the two cities, operated by Yugoslav Airtransport (JAT), a Serbian public company, and Montenegrin Airlines. Subsidies to keep the fares at an affordable level seem to have disappeared. Over the past year, Montenegrin Airlines has increased the price for a return ticket by 30 percent from DM 100 to DM 130, and JAT by more than 140 percent from DM 68 to DM 165. The flight now costs only slightly less than an average monthly salary in Serbia.³⁶ To maintain business, cultural and family links, the two republics could do much to improve the ease of inter-republican transport.

Telecommunications

The cost of inter-republican telecommunications continues to rise, while local rates are kept low. For a single German mark, Montenegrins can talk on a landline to a friend in the same town for 2½ hours, to another town in Montenegro for 13 minutes, and to Serbia for only 7 minutes, at the same rate as to Republika Srpska in Bosnia-Herzegovina.³⁷ Using a mobile phone, for one mark Montenegrins can talk for four minutes within Montenegro and only two minutes to Serbia.³⁸ To use a Montenegrin mobile phone in Serbia, they are obliged to pay international roaming charges at the rate of DM 3 per minute. This is three times as much as they pay for roaming charges in Croatia and five times as much as in Bosnia-Herzegovina.

Citizenship

Citizenship in the FRY forms a complex picture. In addition to Yugoslav citizenship, every individual also possesses republican citizenship, which until now has carried little practical significance.³⁹ In the event of Montenegrin independence, a series of pressing issues would arise. The right of citizens to own property and businesses in the other entity would need to be clarified. One recent study estimates that 5 percent of companies, 20 percent of tourist facilities and 45 percent of weekend houses in Montenegro are owned by Serbian citizens.⁴⁰ Co-operation between the two pension and health funds would be essential. The conditions under which citizens could study in or retire to the other entity would become important.

Cultural links

³⁶ The average net salary in Serbia in July 2001 was 5,427 Yugoslav Dinar or DM 181 (*Ekonomist magazin*, 17 September 2001, p. 68).

³⁷ The rate to the Bosnian Federation is four times as much. Source: Montenegrin Telekom.

³⁸ Rates quoted are from Monet, one of the two mobile telephone companies operating in Montenegro.

³⁹ Under the laws of the former Yugoslavia, people born before 1971 received citizenship in the republic where their father had lived in 1948, even if they had never set foot there. As republican citizenship had few consequences, individuals rarely bothered to change.

⁴⁰ Rade Bojovic and Miodrag Vlahovic, *Srpsko-crnogorski odnosi: osvrt na pitanja vlasništva*, forthcoming.

One of the few points on which political leaders in Montenegro and Serbia agree is the strength of historical and cultural ties between the two republics. Even Montenegrin president Djukanovic, a strong advocate of independence, has argued in favour of preserving “two brotherly states. We cannot have anyone closer than Serbia, nor can Serbia have anyone closer than us.”⁴¹ These links can be seen in the number of Montenegrins who participate in Belgrade cultural life or study in Serbian universities,⁴² and in informal co-operation between educational and cultural institutions. For the time being, these cultural ties are not well institutionalised. There are Yugoslav leagues for football and basketball, which carry important symbolism. However, the two republics have separate Academies of Sciences and Arts as well as National Theatres, and there are very few cultural or civic associations active in both republics.⁴³ Building better cultural co-operation would help to prevent the two societies from drifting further apart.

An Agenda for Dialogue

To resolve the constitutional issues, there is much to be said for starting with the practical issues. Serbian prime minister Djindjic has expressed this view himself: “The issue is simply the order of steps. Should the present state first be dissolved, in order to come together again on the basis of interests, or should those interests first be defined, in order to transform the state? We support the second principle, which is less risky and complicated, and therefore more serious.”⁴⁴

Yugoslav president Kostunica would also seem to have much to gain from a change of strategy. So far, his position is summed up in his often-repeated statement: “Serbia has no interest in living in some alliance of independent states”.⁴⁵ This is designed to discourage Djukanovic by increasing the risks of any unilateral move towards independence. However, the most that can be achieved in this way is to preserve the *status quo*, with all its shortcomings. It does not amount to a positive agenda for recreating the federation or for addressing the concerns of citizens interested in the preservation of Yugoslavia.

A constructive relationship would need to be based on identified interests of Serbian and Montenegrin constituencies. It would have to draw on arguments *in favour of integration*, not merely on arguments *against disintegration*. With elections on the horizon in both republics and at federal level, there may be real political gains to be made by those politicians willing to address the concerns of citizens directly.

The best way to break the stalemate is to identify common interests and open a substantive debate on how they can best be realised. Such a process could be structured around three components. Before preparations for any referendum are launched, Serbia and Montenegro should open a dialogue on two issues: first, articulating core citizens’ interests that must be respected under any new

⁴¹ *Pobjeda*, “Referendum neminovno dogovorimo se o datumu i uslovima”, 23 July 2001, p. 1.

⁴² At this moment there are more than 2,000 Montenegrins studying in Serbia, and about 600 Serbians in Montenegro.

⁴³ See Centre for the development of the non-profit sector in Belgrade (www.crnps.org.yu).

⁴⁴ *Danas*, “Nema nikakvog razloga za moj sukob sa Kostunicom”, 16-17 December 2000, p. II.

⁴⁵ Reuters, “Kostunica rules out Serbia-Montenegro re-marriage”, 19 January 2001.

constitutional arrangement; and second, improving the mechanisms for intergovernmental co-operation in particular areas. The third component would be to prepare for a more substantive constitutional debate by exploring the complex issues of defence, foreign policy and economic integration, which both the Serbian and Montenegrin proposals foresee as joint responsibilities. This will help to generate a more serious debate, preparing the ground for implementing the results of the referendum.

1. A statement of core principles

A constitutional dialogue should begin with agreement on the core principles which both republics would like to see respected under any new constitutional settlement. These would be directed first and foremost to calming the fears of ordinary citizens, preceding any referendum and helping to create the political space for a more open debate. Such a declaration could be debated and adopted as a resolution in the Republican and FRY parliaments, and might include the following components:

Draft declaration of core principles

- I. The border between Serbia and Montenegro will remain open, facilitating free movement of people between the two republics.
- II. Citizens of each republic will enjoy rights in the other republic equivalent to those enjoyed across the European Union by citizens of EU member states. Liberal citizenship arrangements will allow for free choice of residence, including for the purposes of study or retirement.
- III. Rights of ownership of property and businesses will be guaranteed in both republics.
- IV. The current business environment between Serbia and Montenegro will not be allowed to deteriorate any further. Joint efforts will be undertaken to ensure free movement of goods, services and labour.
- V. Border communities in the Sandzak will be protected. Joint efforts will be made to reverse the underdevelopment of the region in order to address the sources of discontent of ethnic minorities living in the area.

2. Inter-governmental co-operation

A second step would be to open a dialogue between the two republican governments on how to promote issues in the common interest. The practice of intergovernmental co-operation in the FRY has never been strong, and has broken down completely in recent years. In a decentralised federal structure where responsibilities for key economic and citizens' interests will remain at republican level, it is important to have direct contacts between the republican governments. A group of experts could be tasked to produce a White Paper examining inter-republican barriers to trade and investment.

The following are areas where intergovernmental co-operation could be developed without necessarily requiring any shift of competence to the central level. These issues have to be resolved regardless of the final constitutional arrangement, and launching a process to address them would help to restore trust between the republics.

- ☞ institutionalised co-operation between law enforcement agencies;
- ☞ co-operation and co-ordination of reform in areas which are predominantly a republican responsibility (judiciary, education, etc.);
- ☞ co-operation in the development of transport infrastructure, with a view to facilitating travel between the republics;
- ☞ co-operation in telecommunications to lower the costs of inter-republican communications;
- ☞ strengthening and institutionalising cultural and sporting links.

If progress is made in these areas, the two republics may paradoxically enjoy much closer relations than they do at present, even if they opt for looser constitutional ties.

3. *The three pillars of a new constitutional settlement*

The final and most complex phase of the dialogue would require an open debate on the main features which the two republics would expect from a new constitutional settlement. Rather than starting from theoretical constitutional considerations, these issues should be approached from a perspective of reconciling concrete Serbian and Montenegrin interests, of designing viable and credible decision-making mechanisms and providing a financial basis for joint institutions.

3.1. *Defence structures*

With standing forces of some 97,000 troops⁴⁶ at an annual cost of DM 1 billion, the Yugoslav Army (VJ) consumes 70 percent of federal revenues.⁴⁷ Although Montenegro does not contribute directly to the defence budget,⁴⁸ Montenegrins continue to serve in the VJ and to answer the call for national service. According to military analysts, some 7.2 percent of VJ personnel (7,000 individuals) are Montenegrin citizens.

Under the present constitution, command of the army is vested in the federal president, to be exercised in accordance with decisions of a Supreme Defence Council comprising the federal president and the presidents of the two republics.⁴⁹ In recent years, this Council has often been bypassed, and although Montenegrin president Djukanovic has attended three Council meetings since the fall of Milosevic, decisions on the deployment of the VJ in southern Serbia and at the Kosovo border were made without the approval of the Council.

⁴⁶ *Military Balance*, International Institute for Strategic Studies, London, 2001, pp. 107-108. While no official data is available on the number of troops stationed in Montenegro, unofficial estimates range from 12,000 to 20,000, including an estimated 7,000 navy personnel.

⁴⁷ *Sluzbeni list SRJ*, No. 73/711 (29 December 2000), p. 12-13 (YU Dinar 32,130 million).

⁴⁸ In 2000, Montenegro contributed about DM 12 million to the VJ, mainly through the payment of electricity bills and other utilities for army facilities in Montenegro. *Monet*, Nr. 5, April 2001, p. 28.

⁴⁹ Constitution of the Federal Republic of Yugoslavia, April 1992, Article 135.

The debate should seek to determine:

- ⊘ what are the common and individual defence needs of the two republics, and how they can best be met;
- ⊘ what is an appropriate structure of civilian control over the military;
- ⊘ what arrangements should be made for the financing of the military;
- ⊘ how much decision-making power are both parties willing to delegate to joint institutions and what safeguards to protect the vital interests of the parties can be designed without threatening the functionality of the joint institutions.

3.2. *Foreign policy*

At the moment, the responsibility for formulating Yugoslavia's foreign policy is confused and contradictory. While in principle the federation has the lead role, Serbia maintains a ministry for international economic relations and the Montenegrin government does not recognise the federal ministry for foreign affairs at all. During the last few years, Montenegro established eleven foreign missions, which continue to operate. If a decision is taken to maintain a common foreign policy, external representation will need to be co-ordinated, irrespective of the status of the units.

To establish a common foreign policy, Serbia and Montenegro would need to agree:

- ⊘ the method for formulating common interests in foreign policy;
- ⊘ the rights of Serbia, Montenegro and their joint bodies, respectively, to make international agreements and become members of international organisations;
- ⊘ the method of representation of Serbia, Montenegro and their joint bodies abroad;
- ⊘ a common visa policy;
- ⊘ the apportionment of foreign debt and other obligations;
- ⊘ a common strategy regarding relations with international donors.

3.3. *Economic union*

Perhaps most importantly, the republics will need to consider the implications of their common desire for close economic union. They will need to consider what degree of integration they are seeking, and how best to achieve it, in each of the following areas:

- ⊘ restoration of a common currency and central bank?
- ⊘ restoration of a common customs tariff and customs administration?
- ⊘ eliminating legal and bureaucratic barriers to the free movement of goods, services, labour and capital?
- ⊘ harmonised tax policy and elimination of tax competition?
- ⊘ common regulations in areas such as competition law, banking, company law, securities etc.? In these areas, should the central authorities be responsible for harmonising separate legislation in the two entities, or should they be the responsibility of a central legislature?
- ⊘ agreed procedures for negotiating progressive integration with the European Union?

Conclusion

It is highly unlikely for Serbia and Montenegro to reach agreement on new constitutional structures before the date set for a spring referendum. It should, however, be possible to come to an understanding on the core principles of future relations and to set up inter-republican bodies in those areas already now under republican responsibility.

As in any constitutional process, the issues are complex. Finding appropriate compromises will require hard work on both sides. Unless the political leaderships adopt a more flexible approach, there is no guarantee of success. However, beginning a dialogue of the type outlined in the *Agenda for Dialogue* increases the likelihood of a positive outcome, for a number of reasons.

First, it ensures that whatever proposals are tabled by the parties, the practical implications will be thoroughly explored. This takes the uncertainty out of the process, ensuring that inter-republican relations will not continue to deteriorate for want of proper attention. It also promotes an informed public debate, in turn encouraging the political elites to take a more constructive attitude.

Second, whether it leads ultimately to a renewed federation or two closely linked independent states, by beginning with genuine, practical issues such a process is likely to lead to an improvement in the relations between Serbia and Montenegro. This will be welcomed by the citizens of both republics, who are concerned above all with the impact on their own lives. It should also be welcomed by the wider international community. It is the prospect of a messy and protracted divorce which poses the greatest risk to regional stability. Unfortunately, for the time being this prospect also remains the most likely.