

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-05-87-T

IN THE TRIAL CHAMBER

**Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetana Kamenova
Judge Janet Nosworthy, Reserve Judge**

Registrar: Mr. Hans Holthuis

Date Filed: 15 July 2008

THE PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

PUBLIC

Public Annexes 1-29 & Confidential Annex 30

**Mr. MILAN MILUTINOVIĆ'S FINAL WRITTEN SUBMISSIONS PURSUANT
TO RULE 86**

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Mr. Branko Lukić and Dragan Ivetić for Mr. Sreten Lukić**

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INTRODUCTION

1. Pursuant to Rule 86, Mr. Milan Milutinović files his final written submissions. These Submissions set out and discuss the legal and factual issues applicable to Mr. Milutinović in these proceedings. He reserves the right to adopt submissions filed by any of the other parties during oral argument.

2. The Prosecution has failed to prove beyond reasonable doubt the guilt of Mr. Milutinović, as alleged in the indictment, and he should be acquitted of all charges brought against him.

PART 1: STANDARD FOR DETERMINING GUILT OR INNOCENCE

THE PRESUMPTION OF INNOCENCE AND PROOF OF GUILT BEYOND A REASONABLE DOUBT

3. The provisions of Article 21(3) of the Statute presume the innocence of the accused until he is proven guilty.

4. Pursuant to Rule 87(A), the Prosecution is bound in law to prove the case alleged against the accused beyond reasonable doubt. The Trial Chamber in *Čelebići* quoted with approval from English case law, *Miller v. Minister of Pensions*, in which Lord Denning explained that the expression "proof beyond reasonable doubt" should be understood as follows:

It need not reach certainty but it must carry a high degree of probability. Proof beyond a reasonable doubt does not mean proof beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour, which can be dismissed with the sentence, 'of course it is possible, but not in the least probable', the case is proved beyond reasonable doubt, but nothing short of that will suffice.¹

¹ *Čelebići*, Trial Judgement, para.600.

If, at the conclusion of the proceedings, there is any doubt that the Prosecution has established the case against the accused, the accused is entitled to the benefit of the doubt and he must be acquitted.²

5. Each and every element of the offences charged against an accused must be proven beyond a reasonable doubt. This burden remains with the Prosecution throughout the trial.³ Any ambiguity or doubt must be resolved in favour of the accused under the principle of *in dubio pro reo*.⁴ It is not sufficient that guilt is a reasonable conclusion available from that evidence. It must be the *only* reasonable conclusion available. If there is another conclusion which is also reasonably open from that evidence, and which is consistent with the innocence of the accused, he must be acquitted.⁵

6. In a joint trial, it is the duty of the Trial Chamber to consider the case against each accused separately and to consider each count in the indictment separately.⁶

NO ADVERSE INFERENCE CAN BE DRAWN FROM THE SILENCE OF THE ACCUSED

7. Mr. Milutinović did not testify in these proceedings.

8. In the *Čelebići* case, the Appeals Chamber held that pursuant to Article 21(4)(g) of the Statute and Rule 85(C) there is an absolute prohibition *against* consideration of the silence of the accused in the determination of guilt or innocence.⁷ This absolute prohibition extends to an inference being drawn in the determination of sentence.⁸

² *Kupreškić*, Trial Judgement, para.339(a) and *Čelebići*, Trial Judgement, paras.601-603.

³ *Brđanin* Trial Judgement, para. 22.

⁴ *Blagojević & Jokić* Trial Judgement, para.18, *Halilović* Trial Judgement, para.12

⁵ *Čelebići* Appeal Judgement, para.458.

⁶ *Kordić*, Trial Judgement, para.16.

⁷ Para.781.

⁸ *Čelebići*, Appeal Judgement, para.783. *Kupreškić*, Trial Judgement, para.339(d).

PART 2: MR. MILUTINOVIĆ'S BACKGROUND – CHARACTER – PERSONAL CIRCUMSTANCES

9. Mr. Milutinović was born on 19 December 1942 in Belgrade, Serbia. He received a degree in law from Belgrade University.⁹

10. At different times during his career, Mr. Milutinović held the following posts within the Republic of Serbia, the SFRY and the FRY. Between 1977-1982, Mr. Milutinović held a Government post as a member of the Executive Council of the Socialist Republic of Serbia¹⁰ Assembly (Government of Serbia) and was the Socialist Republic of Serbia Secretary for Education and Sciences (Minister). Mr. Milutinović held the following non-governmental posts: he was elected by universal suffrage as a member of the SFRY Federal Parliament (M.P.) to the Socio-Political Chamber and was a member of the foreign policy committee in the Federal Assembly (1969-1974); he was elected by public competition as Director of the National Library of Socialist Republic of Serbia (1983-1987). Mr. Milutinović also served as an ambassador in the SFRY Federal Ministry of Foreign Affairs as Head of the Sector for press, information and culture (1987-1989) and as the SFRY Ambassador to Greece from 15 September 1989 until 27 April 1992 and, thereafter, as FRY Ambassador to Greece until 15 August 1995. He was appointed the Minister of Foreign Affairs of the FRY on 15 August 1995.¹¹

11. In his capacity as Minister of Foreign Affairs, Mr. Milutinović was one of the representatives of the FRY at the following conferences and international meetings: the Geneva meetings regarding the Bosnian cease fire on 8 September 1995; the meeting of Balkan foreign ministers in New York on 25 September 1995; and the Dayton peace negotiations in November 1995.¹²

⁹ *Prosecutor v. Milutinović*, Defence Pre-Trial Brief Filed on Behalf of Mr. Milan Milutinović Pursuant to Rule 65ter(F), IT-05-87-PT, 6 June 2006, paragraph 10.

¹⁰ During the existence of the SFRY, the Republic of Serbia was known as the Socialist Republic of Serbia.

¹¹ *Supra*, footnote 9.

¹² *Ibid.*

12. Mr. Milutinović was President of the Republic of Serbia from 21 December 1997 until 29 December 2002. As President of the Republic of Serbia, Mr. Milutinović was a member of the Supreme Defence Council of the FRY ("VSO").¹³

13. Mr. Milutinović came to the office of President of the Republic of Serbia with a great deal of diplomatic experience. In that sense, he was an atypical politician, because of his experience and his nature, he was very open to agreement, negotiations, and dialogue. He is a person with whom one could reach agreement and he was always ready to hear out the other side and to talk in a civilised manner to people who had different views.¹⁴

14. Throughout 1998 and 1999 and, in particular, during the process of working on draft agreements on self-governance in KiM in 1998 with Ambassador Christopher Hill and Mr. Jim O'Brien and during meetings on KiM at Rambouillet and in Paris, Mr. Milutinović never voiced any sort of desire for war or the use of force to resolve the Kosovo issue. The views that he voiced were exactly the opposite. He believed that the only way forward for KiM, the only way for the crisis to be resolved, was through political dialogue, with the support of the state organs and institutions of the FRY and the Republic of Serbia. That is the political gist of everything he ever stated and did. There was not a single time he addressed the public without reiterating it. This was his innermost conviction.¹⁵

15. In October 2000, following the federal parliamentary and federal presidential elections, Dr. Vojislav Koštunica, the DOS (Democratic Opposition of Serbia representative) became President of the FRY. On 16 October 2000, Mr. Milutinović, along with Mr. Koštunica, Mr. Zoran Djindjić of the Serbian Democratic Opposition, Mr. Vuk Drašković of the Serbian Renewal Party and Mr. Zoran Andjelković of the Socialist Party of Serbia signed the *Agreement on Calling Early Parliamentary Elections in the Republic of Serbia*.¹⁶ The Government resigned and a provisional, transitional

¹³ *Ibid.*

¹⁴ Tr.13236.

¹⁵ Tr.13225-13226.

¹⁶ 1D642.

Government was elected. Mr. Milutinović accepted the proposal of this new government to dissolve the National Assembly and call parliamentary elections. It was believed that these elections would reflect the new balance of political forces that was in place. The National Assembly would in turn elect its own Government. This was the Assembly that was elected on 23 December 2000, and it elected a Government and Mr. Zoran Djindjić, as prime minister.¹⁷ Mr. Milutinović's conduct in this crucial period demonstrates the characteristics of his personality and of his character. This entire transition was carried out in accordance with the laws in force at the time. This transfer of power was in accordance with the then-constitution that was in force; moreover, that constitution remained in force for another six years. It was not until November of 2006 that Serbia adopted a new constitution.¹⁸

16. The evidence of the late Zoran Djindjić, the former Prime Minister of the Republic of Serbia in the last two years of Mr. Milutinović's mandate as President, is that Mr. Milutinović contributed to an orderly democratic transition, and for that reason it was important for democratic stability that he served his full mandate as President.¹⁹ Likewise, Mr. Goran Svilanović, the former Minister of Foreign Affairs of the FRY stated that Mr. Milutinović worked cooperatively and in a forthcoming manner with the new democratic authorities established after the federal and presidential elections in October 2000.²⁰

17. Mr. Milutinović has a history of health problems and he continues to need specialized treatment for all his ailments.²¹

18. As of today's date, Mr. Milutinović has been in detention at the UNDU for 1529 days.

19. Mr. Milutinović cooperated with Office of the Prosecutor. He has shown willingness to communicate with representatives of the Office of the Prosecutor and he

¹⁷ Tr.13236-13240.

¹⁸ Tr.13236-13240.

¹⁹ 1D688.

²⁰ 1D687.

²¹ Confidential Annex 30.

did so on several occasions.²² He was interviewed on two occasions by the Prosecutor, including a two-day interview in November 2001. In the course of the interview Mr. Milutinović gave his views, recollections and account of his acts, conduct and state of mind concerning the events in 1998 and 1999 which ultimately turned out to be in full accordance with evidence presented in this case.²³ During the interview he maintained that he used every effort to find a peaceful solution to the problems in KiM and to avoid the war in 1999.²⁴

PART 3: THE ALLEGATIONS AND CHARGES AGAINST MR. MILUTINOVIĆ ARE UNFOUNDED IN LAW AND IN FACT

20. The Prosecutor alleges that by virtue of the allegations set out in paragraphs 1, 7, 8, 23, and 35-39 of the indictment, Mr. Milutinović is guilty of the charges set out in counts 1-5. Mr. Milutinović asserts that the entire theory of the Prosecutor's case against him is misguided and demonstrates a misunderstanding of the authority and competence of the President of the Republic of Serbia, as well as his duties, responsibilities, activities, and his state of mind in 1998 and 1999.

21. It is noteworthy that the Prosecutor declined to call a constitutional expert to address matters related to the authority and competence of Mr. Milutinović, as the President of the Republic Serbia. Dr. Ivan Kristan was dropped from the witness list and the Prosecutor abandoned a second constitutional expert, Professor Joseph Marko and declined to disclose his expert report to the Defence.²⁵ During the Prosecution case, no attempt was made by the Prosecutor to lead evidence or to offer an interpretation or construction of the relevant constitutional or legislative provisions on the crucial matters going to the essence of his allegations against Mr. Milutinović: the authority and competence of the President of the Republic of Serbia *sedes maetriae*, his relationship to the National Assembly, the Government, or state administration pursuant to the *Constitution of the Republic of Serbia*, the function and authority of the VSO. In his 98bis submissions, the Prosecutor simply asserted that Mr. Milutinović, as the President

²² 1D687.

²³ P604

²⁴ Annex 24.

²⁵ *Prosecutor v. Milutinović et al.*, Prosecution's Notification Regarding Additional Constitutional Expert, 20 May 2005, IT-99-37-PT.

of the Republic of Serbia was a very powerful individual because he was elected by direct universal suffrage and his recall²⁶ was subject to a two-thirds majority vote of the National Assembly and an absolute majority vote of registered voters.²⁷

22. On the other hand, Mr. Milutinović presented the expert opinion and testimony of Professor Ratko Marković, one of the leading scholars on the Constitutions of the SFRY, FRY, and the Republic of Serbia. Prior to the testimony of Professor Marković, the Prosecution conceded that he qualifies as an expert in the field of constitutional law because of his knowledge, training and experience.²⁸ Indeed, Professor Marković is without question one of the leading experts of constitutional law, with unparalleled expertise of the constitutions relevant to this case: the Constitutions of the SFRY, FRY, Serbia, the State Union of Serbia and Montenegro.²⁹ In addition, he was a member of the constitutional commission which was established to prepare a draft constitution for the Republic of Serbia in 1990.³⁰ Based on his scholarly work, Professor Marković prepared an independent expert opinion for this trial to deal specifically with issues concerning the authority, competence and position of the President of the Republic of Serbia.³¹ During the testimony of Professor Marković, two Power Point presentations were used to further elaborate his expert opinion: IC131 was used in relation to Article 83 of the *Constitution of the Republic of Serbia*³² and IC132 was used to explain the difference between a proclamation/ordinance “*ukaz*” and a decree “*uredba*”.

23. Annex 1 to these Submissions contains an analysis of the expert report and expert testimony of Professor Marković. This evidence is presented in Annex 1 to facilitate access to the full expert evidence of Professor Marković and to focus these Submissions on issues concerning the authority and competence of the President of the Republic of Serbia which are most directly relevant to the allegations and charges in the indictment. Professor Marković clearly elucidated the authority, competence and the ability of the

²⁶ Annex 2, P855, Article 88.

²⁷ Tr.12664.

²⁸ *Prosecutor v. Milutinović*, Prosecution Notices Pursuant to Rule 94 bis (B), IT-05-87-T, 11 July 2007, para.4.

²⁹ 1D684.

³⁰ Tr.13271. Tr.13269-13273,13321-13326.

³¹ 1D682;1D745. Tr.12874-12875,12876.

³² Annex 2, P855.

President of the Republic of Serbia to act according to the constitutional and legislative framework which existed in the Republic of Serbia and the FRY. His comprehensive and exhaustive review of these matters demonstrates that, as a representative of the embodiment of the State of Serbia, and as a stable, non-operational executive, the President of the Republic of Serbia has the competence, authority, and ability to act on his own accord when granting pardons³³ and when establishing professional services and other kinds of services to conduct affairs falling within his jurisdiction.³⁴ Otherwise, the President either has no ability to act or his ability to act is subject to limitations contained in the constitution vis-à-vis the National Assembly, the Government, and state administration.

24. A review of the totality of the evidence in this case demonstrates that the Indictment and the positions taken by the Prosecutor in his case against Mr. Milutinović are ill-conceived and baseless in law and in fact.

INDICTMENT PARAGRAPH 8.I. – CONDUCTING RELATIONS WITH FOREIGN STATES AND INTERNATIONAL ORGANISATIONS

25. Contrary to the allegation made in the Indictment, and in particular paragraph 8.i., Mr. Milutinović, as the President of the Republic of Serbia, never represented Serbia and conducted its relations with foreign states and international organisations. In particular, he was never authorized or competent to act pursuant to Article 83(4) of the *Constitution of the Republic of Serbia* to conduct affairs in the sphere of relations between the Republic of Serbia and other states and international organisations in accordance with the law. The Republic of Serbia never had the status of an independent state while Mr. Milutinović was the President. It became independent in 2006. Article 83(4) is an example of the “reserve powers” contained in the *Constitution of the Republic of Serbia*, which were subject to the supremacy of the federal constitution. On the basis of the paramountcy of the *Constitution of the FRY* and federal legislation, Mr. Milutinović never had the authority, competence, or ability to act pursuant to Article 83(4) of the

³³ Annex 2,P855,Article 83(9).

³⁴ Annex 2,P855,Article 83(11).

Constitution of the Republic of Serbia.³⁵ In addition, no implementing legislation as required by Article 83(4) – “in accordance with the law” – was ever enacted in the Republic of Serbia to give effect to this provision.

26. Federal jurisdiction in the area of international relations is exclusive pursuant to Articles 96(1), 99(1), and 77(6) of the *Constitution of the FRY*.³⁶ Foreign affairs were within the competence of the federal state, both during the existence of the SFRY and later on in the FRY.³⁷ Indeed, this was provided for explicitly at Article 281(7) of the *Constitution of the SFRY* of 1974.³⁸ Federal legislation in force and as amended since 1981, clearly shows that foreign relations were within the competence of federal organs. Articles 3 and 5 of the *Law on Carrying Out Foreign Affairs Tasks Within Competencies of Federal Administration Organs and Organisations* (16 October 1981)³⁹ regulated foreign affairs in the SFRY. This law remained in force from 1981 until 1998. The federal organs and organisations dealing in international relations are the Federal Executive Council, which was the Federal Government.⁴⁰ The *Law on Foreign Affairs* (4 December 1998)⁴¹ replaced the previous law. This legislation regulates foreign affairs and provides that foreign relations remained within the competence of the federal state, and that the federal state exercises these powers through its federal organs.⁴²

27. There is no evidence that Mr. Milutinović, as President of the Republic of Serbia, conducted its relations with foreign states and international organisations.

INDICTMENT PARAGRAPH 8.III. - REQUESTS TO THE GOVERNMENT

28. Contrary to the allegations made in the Indictment, and in particular paragraph 8.iii., Mr. Milutinović, as the President of the Republic of Serbia, in conjunction with the Republic of Serbia Assembly,⁴³ did not have the authority to request reports both from

³⁵ Annex 1, paras. 11-27.

³⁶ Annex 2, ID139.

³⁷ Tr.12916-12917.

³⁸ Annex 2, P1623.

³⁹ Annex 2, ID750.

⁴⁰ Tr.12914-12916.

⁴¹ Annex 2, ID246, Articles 1-4.

⁴² ID258. Tr.12916-12917.

⁴³ The correct term is the “National Assembly of the Republic of Serbia”.

the Government of Serbia, concerning matters under its jurisdiction, and from the MUP, concerning its activities and the security situation in Serbia. The allegation contained in paragraph 8.iii. of the indictment completely misconstrues the *Constitution of the Republic of Serbia* and confuses the provisions of the latter with the *Law on Internal Affairs*. Regardless, on the proper interpretation of the constitution and the *Law on Internal Affairs*, the President of the Republic had no authority or competence over either the Government or the Ministry of the Interior.

29. The relationship between the President of the Republic and the Government is the classic relationship between the head of state and the Government in the parliamentary system of governance. The Government stems from the parliamentary majority and answers to it politically for its work. The majority in parliament determines who members of Government will be and for how long (except in case when the mandate of the Government is terminated *ex constitutione*). Article 9(3) of the *Constitution of the Republic of Serbia* expressly states that “executive power” is vested in the Government. The President of the Republic does not have constitutional powers vis-à-vis the Government. He can propose the prime minister designate, but the decision on who becomes prime minister is made by parliamentary election. The President of the Republic has no authority over the Government. He cannot chair Government sessions, sign Government enactments, or issue executive decrees (“*uredba*”). He cannot decide on the establishment and dissolution of Government, ministries, and agencies. There is, however, close interplay between the Government and the National Assembly. The National Assembly chooses and appoints both the prime minister and the Government, and both are exclusively responsible to the National Assembly.⁴⁴

30. Pursuant to Article 85 of the *Constitution of the Republic of Serbia*, the President of the Republic may request the Government to state its positions concerning certain issues within its jurisdiction.⁴⁵ The President of the Republic cannot order the Government to perform certain tasks falling within its jurisdiction. He has no influence on the Government regarding its views or the ability to have the Government relinquish

⁴⁴ 1D682, paras.3.14-3.17, Tr.12984-12985.

⁴⁵ Annex 2,P855.

or change its positions. He cannot instruct the Government, ministers, or any other government officials, nor can he impose any sanctions on the Government, such as recalling or replacing a member of the Government.⁴⁶

31. Pursuant to Article 19 of the *Law on Government of the Republic of Serbia*⁴⁷, the President may make a request of the Government:

Article 19

At the request of the President of the Republic, the Government shall take a position on specific issues⁴⁸ within its jurisdiction and inform the President of the Republic thereof within a period that he determines and that may not be shorter than 48 hours as a rule.

The Government either relays its views to the President of the Republic about certain issues falling within its jurisdiction or provides him with information on these issues. The President of the Republic has no influence over the quantity or exhaustiveness of the information provided by the Government nor does he have a service at his disposal to check its accuracy or veracity.⁴⁹ This 48-hour period is one that cannot be shorter, and it is there for the benefit of the Government, not for the benefit of the President. The Government has to study the request and the relevant ministry within the sphere of whose competence the position falls prepares a response. Thus, the Government prepares its position, and presents it to the President of the Republic.⁵⁰

32. According to the constitution, the President of the Republic has no power with regard to the state administration nor do state administration organs have any obligations towards the President of the Republic.⁵¹ The collective superior of the state administration is the Government or the cabinet, which is headed by the prime minister. The Government has strong organisational powers (to set principles for the internal organisation of ministries and other administration organs and special organisations, to appoint and dismiss officials in ministries, other administration organs and special organisations), financial powers (to propose the law on the budget) and control powers (to monitor the work of the ministries, other administration organs and special

⁴⁶ 1D682, paras.3.18-3.19.

⁴⁷ Annex 2,P1862.

⁴⁸ Tr.12988-12989.

⁴⁹ 1D682,para.3.19.

⁵⁰ Tr.12987-12988.

⁵¹ Tr.12989,P1823.

organisations, to annul or abrogate their regulations which are in contravention of the law or regulation that it has passed). By a Government decree ("*uredba*") it establishes the principles for the internal organisation of ministries and other organs of administration and special organisations.⁵²

33. The powers of the President of the Republic and the National Assembly can be determined only by the Constitution because both these organs stem from direct elections. The powers of the Government can be determined both by the Constitution and law. Laws can determine the relationship between the individual ministries and the President of the Republic, but they cannot expand the constitutional powers of the President of the Republic.⁵³

34. In 1999, pursuant to the *Law on Internal Affairs*,⁵⁴ the legal principle of concentration and centralization to the advantage of the Ministry of the Interior applied to the conduct of internal affairs in the Republic of Serbia, according to Articles 1, 6, 7, 8 and 33. Article 7 confirms the individual principle of the organisation of the Ministry of the Interior. The Minister has all the powers of the ministry, and he prescribes the manner in which work in the ministry will be done, and he issues instructions in this respect. The Minister has broad discretion in running the ministry within the parameters set by the law.⁵⁵

35. The *Law on Internal Affairs*, mentions the President of the Republic at Article 9 and Article 17. In Article 9, the President of the Republic and the National Assembly may make a "joint and simultaneous" request to the Minister of the Interior to submit a report on the work of the Ministry of the Interior and on the security situation in the Republic of Serbia.⁵⁶

Article 9

At the request of the National Assembly and the President of the Republic, the Minister

⁵² 1D682,para.3.21; Tr.12989-12990.

⁵³ 1D639.

⁵⁴ Annex 2,P1737. 1D682, paras.3.22-3.24. Both the Law on Internal Affairs and the Law on Ranks of Members of the Ministry of the Interior are no longer in force. 1D639.

⁵⁵ Tr.12990-12991.

⁵⁶ 1D682,paras.3.25 and 3.28; Tr.13346.

must submit a report on the work of the Ministry of the Interior and on the security situation in the Republic.

The National Assembly of the Republic of Serbia did not meet during the state of war which existed between 24 March and 24 June 1999.⁵⁷

36. The rationale behind having a report from the Minister of the Interior submitted to the National Assembly is clear. If the Assembly is not satisfied with the report, it can raise the question of political responsibility of the Minister of the Interior by proposing a vote of confidence of the Minister. This is consistent with the constitutional powers and position of the National Assembly. It “elects and dismisses” the Prime Minister, Deputy Prime Ministers and ministers in the Government⁵⁸ and legislates for “the organisation and competence of ministries, their administrative organs, and special organisations”.⁵⁹

37. On the other hand, there is no apparent rational constitutional or legal basis in submitting such a report to the President of the Republic. He does not have at his disposal any constitutional, statutory, or other authority that would allow him to hold members of the Government accountable, including the Minister of the Interior.⁶⁰ In addition, Article 9 of the *Law on Internal Affairs* provides for a different set of circumstances from those contemplated in Article 85 of the *Constitution of the Republic of Serbia*.⁶¹ The latter concerns a request from the President to the Government to state its position on certain issues falling within its jurisdiction. The former refers to the report from only one ministry, based on the joint and simultaneous request of the National Assembly and the President. It is the Minister who submits such a report directly to the Assembly and the President of the Republic. The position of the Government, according to Article 85 of the *Constitution of the Republic of Serbia*, is the position of the entire cabinet collectively, adopted at a session of the cabinet and then forwarded to the President of the Republic. By contrast, pursuant to Article 9 of the *Law on Internal Affairs*, a report is sent by the Minister to the National Assembly and the President of the

⁵⁷ 1D190,Tr.12931.

⁵⁸ Annex 2,P855, Article 73(10).

⁵⁹ Annex 2,P855, Article 94(5). 1D682,paras.3.26-3.27.

⁶⁰ 1D682,paras.3.26-3.27.

⁶¹ Annex 2,P855, Article 85.

Republic.⁶² However, Article 9 of the *Law on Internal Affairs* may be *ultra vires* the *Constitution of the Republic of Serbia* in relation to the President of the Republic. The powers of the President are an exclusively constitutional category, which cannot be amplified by law.⁶³

38. The only other provision in the *Law on Internal Affairs* that mentions the President of the Republic is Article 17, in connection with a state of emergency.⁶⁴ This provision refers to a state of emergency, which according to Article 83(8) of the *Constitution of the Republic of Serbia*, may be proclaimed by the President at the proposal of the Government. However, as discussed above, Article 83(8) is one of the “reserve powers”, which was subject to the supremacy of the federal constitution and federal institutions.⁶⁵ The Republic of Serbia was only authorised for the first time to introduce a state of emergency, in line with its regulations, after the adoption of the *Constitutional Charter of the State Union of Serbia and Montenegro 2003*⁶⁶, when the FRY ceased to exist and the state union of the Republic of Serbia and the Republic of Montenegro was created.⁶⁷ The provisions of Article 17 refer to the competence of the President to issue decrees pursuant to Article 83(7) of the *Constitution of the Republic of Serbia*, which was contingent on an irregular situation being declared by the Federal Assembly or the Federal Government.⁶⁸

INDICTMENT PARAGRAPH 8.IV. - DISSOLVING PARLIAMENT

39. Paragraph 8.iv. of the Indictment states that Mr. Milutinović, as the President of the Republic of Serbia, had the authority to dissolve the Republic of Serbia Assembly,⁶⁹ and with it the Government, “subject to the proposal of the Government on justified grounds, although this power applied only in peacetime”. This paragraph in the Indictment refers to Article 89 of the *Constitution of the Republic of Serbia*. It is an act initiated by the Government and the means by which elections may be called prior to the

⁶² Tr.12992.

⁶³ 1D639.

⁶⁴ Annex 2,P1737.

⁶⁵ Annex 1,paras.11-27.

⁶⁶ 1D744.

⁶⁷ 1D682, paras.3.29-3.31.

⁶⁸ Tr.12993.

⁶⁹ The correct term is the “National Assembly of the Republic of Serbia”.

end of the Government's mandate. Article 89 is an example of the limitations placed on the President of the Republic by the constitution. His ability to act is subject to a reasoned written proposal from the Government in peacetime. According to Article 89, the National Assembly may not be dissolved during a state of war. It would appear that the reference to Article 89 is irrelevant to the charges contained in the indictment which are alleged to have occurred during a state of war. It is difficult to see how dissolving the National Assembly during peacetime could have any relationship to the charges in the indictment.⁷⁰

40. The National Assembly of the Republic of Serbia did not meet during the state of war which existed between 24 March and 24 June 1999.⁷¹

INDICTMENT PARAGRAPHS 8.v. AND 35.d. - DECREES DURING A STATE OF WAR

41. Contrary to the allegation made in the Indictment, and in particular paragraphs 8.v. and 35.d., Mr. Milutinović did not use his decree authority to impose measures to further the crimes charged in Counts 1, 2 and 5.

42. As the President of Serbia, Mr. Milutinović had no authority or competence to proclaim an irregular situation: a state of emergency, a state of imminent threat of war, or a state of war, pursuant to Article 83(6) and Article 83(8) of the *Constitution of the Republic of Serbia*.⁷² These are "reserve powers" contained in the *Constitution of the Republic of Serbia*, which were subject to the supremacy of the federal constitution.⁷³

43. Federal jurisdiction in the area of declaring an irregular situation – a state of emergency, a state of imminent threat of war, or a state of war – is exclusive pursuant to Articles 78(3) and 99(10) of the *Constitution of the FRY*.⁷⁴ According to Article 78(3), the Federal Assembly decides *inter alia* on war or peace, it declares a state of war, a state

⁷⁰ Annex 1, paras.59-62.

⁷¹ 1D190. Tr.12931.

⁷² Annex 2,P855. 1D682, paras.2.5-2.10; IC131, slides 3 and 4; Tr.12900, 12914-12916, 12921-12922.

⁷³ Annex 1,paras.11-27.

⁷⁴ Annex 2,1D139.

of an imminent threat of war, and a state of emergency.⁷⁵ Alternatively, Article 99(10) deals with these irregular states, if the Federal Assembly is unable to meet. In these circumstances, the competency for declaring an irregular state falls within the purview of the federal cabinet, upon hearing the opinion of the President of the FRY, as well as the Speaker of the Parliament.⁷⁶

44. Articles 78(3) and 99(10) of the *Constitution of the FRY* are also the constitutional basis for declaring the end to an irregular situation.⁷⁷

45. To further illustrate this, exhibit P1664 is the *Proclamation of Imminent Threat of War* (23 March 1999) adopted by the Federal Government pursuant to Article 99(10) of the *Constitution of the FRY*. The Federal Assembly was unable to meet and the decision on proclaiming a state of imminent threat of war was adopted by the Federal Government.⁷⁸ Exhibit P991 is the *Proclamation of a State of War* (24 March 1999) adopted by the Federal Government pursuant to Article 99(10). Exhibit P1311 is the *Decision to End the State of War* (24 June 1999) adopted by the Federal Assembly pursuant to Article 78(3) of the *Constitution of the FRY*.⁷⁹

46. Accordingly, Article 83(7) of the *Constitution of the Republic of Serbia* becomes operative when an irregular situation (an imminent threat of war or a state of war) is declared by either the Federal Assembly or the Federal Government.⁸⁰ The authority and competence of the President of the Republic of Serbia and his ability to act is therefore contingent on the decision of a federal institution. Furthermore, Article 83(7) provides that the President of the Republic is competent to adopt instruments that regulate matters falling within the competence of the National Assembly only during a state of war or imminent threat of war. As soon as the irregular situation ceases to exist,

⁷⁵ Tr.12919.

⁷⁶ Tr.12919-12920.

⁷⁷ Tr.13300-13302.

⁷⁸ Tr.12920.

⁷⁹ Tr.12920-12921.

⁸⁰ Annex 1, paras.14-30 and 36-41.

the President is duty-bound to present those instruments to the National Assembly for confirmation.⁸¹

Article 83

The President of the Republic shall:

7) at his own initiative or at the proposal of the Government during a state of war or imminent threat of war, adopt instruments relating to questions falling within the competence of the National Assembly, whereby he is bound to submit them to the National Assembly for approval as soon as it is in a position to meet. By way of the instruments adopted during the state of war it shall be possible to restrict some human and civil freedoms and rights, and to alter the organisation, composition and powers of the Government and ministries, and public prosecutor's offices.

47. During an irregular situation, the usual division of powers between the Government and the National Assembly pursuant to Article 9 of the *Constitution of the Republic of Serbia* is temporarily disrupted.⁸² The Government takes over legislative power from the National Assembly, subject to the ratification of all instruments adopted during the irregular situation, after it ceases.⁸³ Article 83(7) provides that the President “shall” adopt instruments proposed by the Government during a state of war.⁸⁴ The constitution does not envisage the situation where the President can decline to adopt instruments proposed by the Government. It follows from the interpretation of the constitution that had the constitution wanted to confer a discretionary power on the President, it would have stated in the constitution that he “may” adopt an instrument proposed by the Government.⁸⁵ The President of the Republic acts in compliance with the constitution when he makes it possible for all the various branches of government to carry out their particular competencies during irregular situations.⁸⁶

48. In 1999, during the state of war, pursuant to Article 83(7), Mr. Milutinović issued sixteen decrees, at the proposal of the Government.⁸⁷ Each decree was formulated by the Government and sent to the President for adoption by one of the deputy prime ministers

⁸¹ Tr.12902.

⁸² Tr.13293-13294.

⁸³ Tr.13629.

⁸⁴ Tr.13219. Article 83(7) the word “*donosi*” which is translated as “shall” adopt instruments.

⁸⁵ Tr.13293-13294.

⁸⁶ Tr.13628-13629.

⁸⁷ 1D144(P933);1D153(P933);D147(P933);1D150(P933);1D158;1D161;1D163;1D166;1D169;1D172;1D175;1D178;1D181;1D478;1D187;1D189.

of the Government. Each decree was within the remit of the Republican Government⁸⁸ and was published in the Official Gazette of the Republic of Serbia.⁸⁹

49. On 25 June 1999, the day after the cessation of the state of war, Mr. Milutinović submitted these decrees for ratification to the first session of the National Assembly, through the President of the National Assembly, Mr. Dragan Tomić.⁹⁰ The National Assembly confirmed all these wartime decrees and declared them null and void, as the state of war had ceased.⁹¹

50. The Decrees issued during the war can be divided into three categories: twelve decrees related to the budget and other financial regulations, three decrees related to citizens' rights and obligations,⁹² and one decree related to the Ministry of Interior⁹³. All these decrees were aimed at creating an environment where the state and its regulations and especially its organs could function properly under wartime conditions⁹⁴.

51. The *Decree on Internal affairs During a State of War* enlarged and tightened disciplinary procedures and created the prerequisites for the Ministry to function more efficiently. The *Law on Internal Affairs*⁹⁵ prescribes the disciplinary procedure in MUP. This Decree amplifies this disciplinary procedure by extending the right to an immediate superior to impose measures to punish his subordinates on the spot in cases of minor disciplinary offences, as well as to the Assistant Minister in cases of a grave disciplinary offence.⁹⁶ The Decree additionally enlarged the list of offences which are considered as minor or grave offences, and prescribed additional punishments.⁹⁷ Among others, this Decree adds "exhibition of national, racial or religious intolerance"⁹⁸ as additional grave offence.

⁸⁸ Tr.12927.

⁸⁹ Tr.12925.

⁹⁰ 1D190. Tr.12931.

⁹¹ 1D192. 1D682, paras.2.28-2.29.

⁹² 1D144(P933); 1D147(P933); 1D150(P933).

⁹³ 1D153(P933).

⁹⁴ 1D144; 1D147; 1D150; 1D153.

⁹⁵ P1737

⁹⁶ Tr.23940; 6D1533, para 14; 6D1631, para. 16.

⁹⁷ 1D153(P933), Articles 9-10.

⁹⁸ Ibid.

52. The position taken by the Prosecutor in relation to the *Decree on Personal ID Cards During a State of War* and ascribing criminal intent and criminal content to it completely misrepresents the document and it is entirely unsubstantiated by the evidence in this case. The Decree on ID cards was enacted on 7 April 1999, the same day as the decrees on citizens' assembly, and citizens' residence. Similar decrees had previously been on the books in the SFRY, as decrees which would be enacted during a state of war. There is nothing new or particular about the existence or enactment of these decrees.⁹⁹ It cannot be said that there was anything illegal, criminal or nefarious about these temporary war time decrees. The Decree on ID cards simply required all citizens from age 14 to register his or her domicile or residence, within a limited period of time, if leaving their previous place of residence, and have the ID cards issued to them. It applied to all citizens throughout the Republic of Serbia. There are a number of reasons that justify such requirement of the state during state of war, such as security reasons, mobilization, identification of persons in case of casualty or death, rationalized supply of food and alike.

53. An ID card is a personal document used to establish identity of the person and normally it is issued to persons from the age of 16.¹⁰⁰ The Decree on ID cards during state of war only lowered the age limit to age 14 and nothing else. The decree did not prescribe any punishment for those who do not abide by it. Therefore to suggest that the Decree effectively prevented or discouraged anybody from returning to his place of residence is completely without any merit or substance.

54. Furthermore, citizenship was guaranteed to every citizen of FRY by Article 17 of the *Constitution of the FRY Constitution*, which stated that a "Yugoslav citizen may not be deprived of his citizenship, deported from the country, or extradited to another state".¹⁰¹ Additionally the *Law on Yugoslav Citizenship* prescribed that a citizen can be

⁹⁹ Tr.23381.

¹⁰⁰ P1832, Article 3.

¹⁰¹ 1D139

released of citizenship by renunciation only on the expressed free will of each individual, and that no release or renunciation of citizenship is possible during the state of war.¹⁰²

INDICTMENT PARAGRAPH 7: PROMOTION OF SRETEN LUKIĆ

55. Contrary to the allegation made in the Indictment, and in particular paragraph 7, Mr. Milutinović, as the President of the Republic of Serbia, on 12 May 1999, did not promote Sreten Lukić by "Decree" of the President of the Republic of Serbia from Major General to Lieutenant General.

56. The promotion of Mr. Lukić occurred on the occasion of Security Day, 13 May 1999,¹⁰³ by operation of the law pursuant to Article 6(1) (ordinary promotion) of *Law on the Ranks of Members of the Ministry of the Interior*.¹⁰⁴ Security Day was the annual police holiday, a tradition which started before the creation of the SFRY and continued every year since 1945.¹⁰⁵ It was day of receptions, speeches, commendations, remembrance, open air activities, sports competitions, and exhibitions.

57. According to Article 6(1) of the *Law on the Ranks of Members of the Ministry of the Interior*, the President of the Republic was competent to promote by ordinance ("ukaz") an authorised official with a senior rank (minimum rank of Colonel) to the rank of General or an authorised official with the rank of General to a higher rank of General.¹⁰⁶

Article 6

- 1) The President of the Republic shall assign and appoint to their ranks Generals and authorised officials in posts for which the rank of General is established under the Regulation on Staffing Specification.
- 2) The President of the Republic shall also assign to the starting rank of 2nd Lieutenant graduates and those persons who have obtained a high level of education and this starting rank by completing basic studies at the Police Academy.
- 3) Other authorised officials in posts for which a non-commissioned officer, officer, or senior officer ranks are established under the Enactment on Systematisation shall be

¹⁰² 1D226, Articles 19-25,39.

¹⁰³ 1D680.

¹⁰⁴ Annex 2, 1D237. 1D682, para.3.22. Both the Law on Internal Affairs and the Law on Ranks of Members of the Ministry of the Interior are no longer in force. 1D639.

¹⁰⁵ 1D741,para.29.

¹⁰⁶ Annex 1,paras.70-75.

assigned by the Minister of the Interior or an officer authorised by him.

Promotions in rank pursuant Article 6(1) concern routine promotions to the rank of General, as prescribed by law. The conditions required for the promotion to a higher rank, including the rank of General, are regulated by Articles 7 and 8 of the *Law on Ranks of Members of the Ministry of the Interior*.¹⁰⁷ In these cases, the promotion is simply an act complying with conditions regulated by law and the declarative ordinance on promotion (“*ukaz*”) is only a formality.¹⁰⁸ The promotion in rank is conferred by operation of the law, not by the President of the Republic.¹⁰⁹ In other words, the candidate is promoted because he fulfils all requirements in accordance with the law. Thus, the act of the President on promotion merely confirms an existing fact. This is similar to the promulgation of the law by ordinance (“*ukaz*”), where the President only declares that a law has been passed in the National Assembly.¹¹⁰

58. The office of the President would receive the integral text of the ordinance “*ukaz*” from the Ministry of the Interior, which would then be prepared on the letter head of the President of the Republic of Serbia for his signature.¹¹¹

59. Paragraph 7 of the indictment refers to the promotion of Mr. Lukić on 28 May 2001. This was a promotion by operation of the law pursuant to Article 6(1) (ordinary promotion) when Zoran Živković was the Minister of the Interior. Mr. Živković testified that in 2001 and 2002 the prime minister of the Republic of Serbia, the late Zoran Djindjić had checked with the Prosecutor, Carla Del Ponte and officials in Washington and London and he was told that Mr. Lukić was not being investigated for involvement in any alleged war crimes committed in KiM in 1998 or 1999.¹¹²

60. A promotion to the rank of General does not mean that this individual is being appointed to a certain position in the Ministry of the Interior. The rights, duties, and

¹⁰⁷ Annex 2, 1D237, Articles 7-8.

¹⁰⁸ IC132, slide 4; Tr.12941-12943.

¹⁰⁹ 1D682, paras.3.41-3.42. Tr.25590, 25629; P604, pgs.178-179.

¹¹⁰ Annex 2, P855, Article 83(3). 1D682, para.2.21; IC132 “*Ukaz*” (proclamation/ordinance) and “*Uredba*” (decree), slide 4; Tr.12900, 12941-12943.

¹¹¹ 1D741, para.83, Tr.13747-13748. 1D722 (the word “*YKA3/UKAZ*” is incorrectly translated as “Decree”. The correct translation is “Ordinance”).

¹¹² Tr.24647, 24653-24655.

competencies of the members of the Ministry of the Interior are established in accordance with the law, internal regulations of the ministry, or by the Minister.¹¹³ The Government appoints officials of the Ministry of the Interior, the deputy (according to the current law, also the state secretary) and the Assistant Minister.¹¹⁴ There is no requirement that individuals in these positions hold the rank of General, or any rank at all. A former assistant minister of the interior, Jovica Stanišić, chief of RDB (State Security) held no rank while in that position.¹¹⁵ Pursuant to Article 6(3) of the *Law on the Ranks of Members of the Ministry of the Interior*, all other appointments to the Ministry of the Interior, apart from the aforementioned, are made by the Minister or authorised senior officers.¹¹⁶

61. Ranks in the Ministry of the Interior were introduced only after the *Law on the Ranks of Members of the Ministry of the Interior* came into effect in 1996. Persons who were promoted to the rank of General by the President of the Republic do not account for their work to the President of the Republic. They are responsible exclusively to the Minister of the Interior or the Government, depending on which area of work they are assigned to or to which position they are appointed.¹¹⁷ The Constitutional Court of Serbia declared, *inter alia*, Article 6 of the *Law on the Ranks of Members of the Ministry of the Interior* unconstitutional in 2003 because the competence and authority of the President of the Republic of Serbia can be derived only from the constitution and cannot be expanded by legislation.¹¹⁸

INDICTMENT PARAGRAPHS 8II, 23, 35-39 – SUPREME DEFENCE COUNCIL – SUPREME COMMAND

62. Mr. Milutinović asserts that the following allegations contained in the indictment at paragraphs 8, 23, 35a, 35b, 35e, 36a, 36b, and 38 concerning his alleged *de jure* and *de facto* powers as a member of the VSO and the allegation that he was a member of a body called the Supreme Command are incorrect and unfounded in law and in fact. The

¹¹³ P1737, Articles 1,6,7,8(2),15,18(4),19(4),28,30,33,35,40(2), 51(3), 63,69,70.

¹¹⁴ P1823,Article 46. 1D380.

¹¹⁵ Tr.12997-12998.

¹¹⁶ 1D682,paras.3.37-3.38.

¹¹⁷ 1D682,para.3.40.

¹¹⁸ Annex 1,para.77.

evidence in this case clearly demonstrates that as member of the VSO, Mr. Milutinović had none of the powers alleged by the Prosecutor and that he was not a member of a body called the Supreme Command.

Mr. Milutinović Had No Authority or Competence Over the VJ, the MUP or Other Forces as the President of Serbia

63. Mr. Milutinović, as the President of the Republic of Serbia, was never authorized or competent to act pursuant to Article 83(5) of the *Constitution of the Republic of Serbia* to lead the Armed Forces in peacetime and in war and the popular resistance in war; order the general and partial mobilization; organize the preparations for defence in accordance with law. The Republic of Serbia never had any armed forces. Up to 1992, the federal army was the Yugoslav People's Army (JNA) and during the existence of the FRY, the federal army was the VJ. The provisions of Article 83(5) are "reserve powers" contained in the *Constitution of the Republic of Serbia*, which were subject to the supremacy of the federal constitution. On the basis of the paramountcy of the *Constitution of the FRY* and federal legislation, Mr. Milutinović never had the authority, competence, or ability to act pursuant to Article 83(5) of the *Constitution of the Republic of Serbia*.¹¹⁹

Mr. Milutinović Had No Authority or Competence Over the VJ, the MUP or Other Forces as a Member of the Supreme Defence Council

64. The VSO is a body provided for pursuant to Articles 135 and 136 of the *Constitution of the FRY*.¹²⁰

Article 135

- 1) In wartime and peacetime, the Army of Yugoslavia shall be under the command of the President of the Republic, in accordance with to decisions by the Supreme Defence Council.
- 2) The Supreme Defence Council shall be made up of the President of the Republic and presidents of the member republics.
- 3) The President of the Republic shall preside over the Supreme Defence Council

Article 136

The President of the Republic shall appoint, promote and dismiss from service officers of the Army of Yugoslavia stipulated by federal law; shall appoint and dismiss the president, judges and judge assessors of military tribunals and military prosecutors.

¹¹⁹ Annex 1, paras. 11-27, 31-36.

¹²⁰ Annex 2, 1D139.

An institution such as the VSO never existed before in the constitutions of Yugoslavia (1945-1992). It was created to reflect the duality of the federal structure of the FRY and the formal equality between its two constituent republics. Membership in the VSO was determined *ex officio*, and it comprised the President of the FRY, the President of the Republic of Serbia and the President of the Republic of Montenegro.¹²¹ Matters of defence and security of the FRY, its territorial integrity and sovereignty, are clearly and exclusively under the auspices of the Federal state and Federal organs, and not under either of the constitutions of the Republics. In addition, constitutionally and legally, the President of the FRY alone had exclusive command authority over the VJ.¹²² Politically, he was a federal organ, elected by Federal Assembly, who was responsible for the interests of the federation as a whole, not just the interests of individual republics. Under Article 135(3) of the *Constitution of the FRY*, he was the president of the VSO and under Article 77 of the *Constitution of the FRY*, he was one of the federal organs responsible, *inter alia*, for formulating policy for the defence and security of the FRY.¹²³

65. As president of the VSO, the President of the FRY convened its sessions at his own initiative or at the initiative of other members of the VSO.¹²⁴ He proposed the agenda¹²⁵ and the sessions were convened in writing or in any other suitable manner.¹²⁶ Invitations to sessions of the VSO were transmitted to Mr. Milutinović's office by telephone by an official of the Military Office of the President of the FRY. They would be informed of the date, time and place for the session. This would be followed by the delivery of relevant documents for the sessions to Mr. Milutinović's office. After he reviewed the documents, they would be sent back to the office of the President of the FRY by courier.¹²⁷

66. The Trial Chamber has had the benefit of having presented to it the entire body of evidence concerning the functioning of the VSO and the five sessions attended by Mr.

¹²¹ Tr.13012-13014. The formal equality of the republics is reflected in Article 97(3): "as a rule, the President of the Republic and the federal prime minister may not be from the same member republic", Tr.13014.

¹²² Annex 2,1D139, Article 135.

¹²³ Tr.13023-13025. Annex 2,1D139, Article 77.

¹²⁴ P2622,Article 4;P1738,Article 3.

¹²⁵ P2622,Article 5;P1738,Article 5.

¹²⁶ P2622,Article 6,P1738,Article 6.

¹²⁷ 1D741,para.32.

Milutinović between 9 June 1998 and 23 March 1999: the Rules of Procedure of the VSO,¹²⁸ the minutes of VSO meetings,¹²⁹ and the stenographic notes of meetings, when such notes were taken.¹³⁰ After the meeting of 23 March 1999, the VSO did not meet again until 2000.¹³¹ The minutes and stenographic notes of VSO sessions held in 1998 and 1999 were secret and strictly confidential. Participants spoke openly and candidly at these meetings. This material provides evidence of the nature and function of the VSO and Mr. Milutinović's state of mind. A perusal of the evidence demonstrates that the VSO met to receive information from relevant federal institutions and to discuss matters in three areas: 1) the military and political situation in the region, on the state border with Albania, and the threat of aggression from NATO, 2) the military budget, and 3) personnel matters.

67. The evidence clearly demonstrates that sessions of the VSO were conducted in compliance with the constitutional and legislative framework and the division of powers between federal and republic institutions. In relation to personnel matters, pursuant to Article 136 of the *Constitution of the FRY* and the *Law on the Army and Yugoslavia* and the *Law on Defence*, the President of the FRY was exclusively competent to make decisions on appointment, promotions, dismissals, etc. Nonetheless, at sessions of the VSO when personnel matters were placed on the agenda by the President of the FRY, attendees were informed and consulted by the President of the FRY and they expressed their views on these matters. Budgetary matters were discussed at sessions of the VSO in general terms and they centered on the issue of proportional contributions by the republics to the military budget. Under the constitution and relevant laws, the military budget was within the jurisdiction of the Federal Government, which explains why the discussions at the VSO on this matter are brief and cursory. It does reflect however the duality of the federal state and the formal equality between the republics which is the basis for the existence of the VSO. Matters concerning threats to the FRY from separatist terrorists in KiM and NATO aggression, led to only the adoption of conclusions or

¹²⁸ P2622;P1738.

¹²⁹ 4D106,P1575,P1576,P1000,P1577.

¹³⁰ 1D760,P2831,1D761.

¹³¹ *Infra*, para.93.

political standpoints by the VSO. They were framed in general and conditional language which reflected the position of the VSO and state policy on these matters.

68. The topic of the military budget was discussed at the seventh session of the VSO on 24 November 1998 and at the eighth session of the VSO on 25 December 1998. At the seventh session, the military budget was discussed in general terms concerning the importance of proportional participation of the member republics of the FRY in financing the VJ. The discussion centred on the fact that the Republic of Montenegro had not made its required contribution to the budget. President Djukanović promised that he would send precise information the next day about the participation of Montenegro in the financing of the VJ and he proposed that the finance ministers meet as soon as possible and agree about the current financing of the VJ and the military budget for the next year.¹³² Following this discussion, the VSO unanimously adopted a conclusion:

President Slobodan MILOŠEVIĆ noted the importance of applying the principle of proportional participation of Montenegro in the Federal budget, which should be arranged in detail in the next few days, and then he proposed the following conclusion with regard to the first item of the agenda, which was adopted unanimously by the Council:

The Supreme Defence Council supports the Military Budget and proportional participation of the member republics in the financing of the Army of Yugoslavia.¹³³

69. At the next session of the VSO in December 1998, the military budget for 1999 was discussed. The discussion centred on the two republics working together to arrange meetings and consultations with the relevant authorities in each republic – the prime ministers and the finance ministers – to work on the details of the military budget. President Djukanović supported and agreed with the proposal by President Milošević to work in this fashion to ensure that there were regular payments in the army, month by month.¹³⁴

70. Personnel matters in the VJ were discussed at three meetings: the fifth session of the VSO on 9 June 1998, the seventh session of the VSO on 24 November 1998, and the eighth session of the VSO on 25 December 1998. These matters fall exclusively under

¹³² P1576,pgs.1-2.

¹³³ P1576,pgs.2-3.

¹³⁴ 1D761,pgs.11-13;P1000,pgs.4-5.

the authority of the President of the FRY under the *Constitution of the FRY* and relevant federal legislation. Article 136 of the *Constitution of the FRY*, states:

Article 136

The President of the Republic shall appoint, promote and dismiss from service officers of the Army of Yugoslavia stipulated by federal law; shall appoint and dismiss the president, judges and judge assessors of military tribunals and military prosecutors.

The relevant federal legislation on the authority of the President of the FRY to command the VJ and make all decisions concerning personnel is the *Law on the Army of Yugoslavia*¹³⁵: Articles 2, 4, 5, 6, 16, 28, 34, 46, 103, 107, 151, 168, 163, 173, 179, 204, 208, 291, 296, 316, and 318, and the *Law on Defence*¹³⁶: Articles 6, 8, 14, 40, and 67.

71. Despite the fact that personnel matters were exclusively within the purview of the President of the FRY, these issues were brought before the VSO in order for him to inform and consult the Presidents of the member republics and seek their views. This is made clear at the seventh session of the VSO on 24 November 1998, when the President of the FRY referred to Article 135 and Article 136 of the *Constitution of the FRY* and he stated that he would consult members of the VSO:

President Slobodan MILOŠEVIĆ pointed out that he was satisfied with the manner of debate at the session of the Supreme Defence Council; despite some differences, the debate was constructive and correct. He also reminded the Council members that, according to the Constitution of SR Yugoslavia, decisions on the appointment of generals are issued by the President of the Republic.

According to the Constitution, the jurisdiction of the President of the Republic in relation to the Army of Yugoslavia is regulated in two Articles.¹³⁷ In one /it says/ that the President of the Republic commands the Army, in accordance with the decisions of the Supreme Defence Council, and then it says who the members are and who the president of the Supreme Defence Council is. This article pertains to the use of the Army; a standpoint is adopted about it at the Council and authorities are transferred on to direct executors, such as, for instance, for the engagement of additional forces in Kosmet /Kosovo and Metohija/. In the next, 136th, Article of the Constitution jurisdictions of the President of the Republic are regulated in the appointment and discharge of generals, military court judges, military prosecutors and their deputies, in accordance with the federal law. This law is the Law on the Army of Yugoslavia in which the jurisdictions of the President of the Republic are further specified.

¹³⁵ Annex 2,P984.

¹³⁶ Annex 2,P985.

¹³⁷ Annex 2,1D139, Articles 135-136.

President MILOŠEVIĆ noted that until recently the practice in the work of the Supreme Defence Council was to put many issues on the agenda that the Federal government and other organs can decide about; the Council's opinion was sought even for matters that are exclusively and constitutionally in the jurisdiction of the President of the Republic.

Concluding the debate, the President said he would always, in the future as well, consult members of the Supreme Defence Council, presidents of the member republics, about the most important issues pertaining to the Army of Yugoslavia.¹³⁸

Furthermore, as stated by President Djukanović at the eighth session of the VSO on 25 December 1998, it was fully acknowledged and understood by members of the VSO that they received information and notification about personnel matters, that participants at the session could give their "opinions", and that it was the President of the FRY – not the VSO – that decided on these matters.¹³⁹

72. At the seventh session of the VSO on 24 November 1998, there was discussion concerning President Milošević's decision to appoint General Ojdanić as Chief of Staff of VJ and to appoint the outgoing Chief of Staff General Perišić, as Adviser to the Federal Government on Defence Issues, until the transformation of the Federal Ministry of Defence and the General Staff of the VJ was completed. General Perišić was then destined to be appointed Minister of Defence. President Milošević expressed the view that General Perišić had held the post of Chief of General Staff for an uncommonly long period. He believed that the Chief of the General Staff should not hold this post for so long, using the example of the United States of America, where three generals had held the post in the last five years. President Milošević considered General Ojdanić to be the logical choice to replace General Perišić. He was currently holding the position of Deputy Chief of the General Staff, he had previously held a number of responsible posts in the army, and he had been very successful in the performance of his duties.¹⁴⁰

73. A discussion among the members of the VSO ensued concerning President Milošević's decision to appoint General Ojdanić the Chief of the General Staff in place of General Perišić. President Djukanović was opposed to the replacement of General Perišić. He stated that the only reason he was not in favour of replacing General Perišić

¹³⁸ P1576,pg.5.

¹³⁹ P1000,pg.9.

¹⁴⁰ P1576,pgs.3-5.

was because he had held the position of Chief of Staff for a long time and he was good at it. It was the view held by President Djukanović and the entire leadership of the Republic of Montenegro.¹⁴¹ Mr. Milutinović, while not contesting the opinion of President Djukanović, expressed an opinion in favour of replacing General Perišić and having him take up a new position in the Federal Ministry of Defence (SMO). He made the following observations:

President Milan MILUTINOVIĆ had a different opinion with regard to the issue of replacing the superior officer of the General Staff, although he does not contest what President ĐUKANOVIĆ said. He pointed out that we need a Chief of General Staff who is an excellent operative. At the international level General PERIŠIĆ acted in accordance with political instructions of legitimate organs of this country's political government. That was undoubtedly successful. Nevertheless, he has been holding that post for a long time and a change should be made. We now have parallel institutions in the General Staff and the SMO, and doubling of some activities, which is evidently uneconomical and expensive.¹⁴²

Finally, President Milošević acknowledged the suggestions made by President Djukanović, but he believed that General Ojdanić should be the Chief of the General Staff because he was well acquainted with him, as a qualified officer who held a master's degree in military science, his authority with his subordinates was very high, and he was an extremely honourable and good general.¹⁴³

74. In line with the exclusive power of the President of the FRY to appoint generals, on 11 March 1999, at a session of the Collegium of the Chief of General Staff of the VJ, a proposal for regulating the service status of General Perišić was prepared. This proposal was made pursuant to an order of the President of the FRY to Chief of the General Staff, issued under a decision of the Military Office of the President of the FRY. At the Collegium, it was explicitly stated, *inter alia*, that "pursuant to Article 136 of the *Constitution of the FRY* and Article 151 on the *Law of Army of Yugoslavia* the President of the FRY, and not the Supreme Defence Council, is responsible for regulating a general's service", by decree.¹⁴⁴

¹⁴¹ P1576,pgs.3-5.

¹⁴² P1576,pg.4.

¹⁴³ P1576,pg.4.

¹⁴⁴ P935,pgs.27-28.

75. Likewise, at the eighth session of the VSO on 25 December 1998, there was a discussion concerning five generals that President Milošević had decided to promote to a superior rank. When President Milošević asked whether there were any comments, suggestions or remarks to make about the promotions, President Djukanović stated that he needed to have more information before being able to express a view on the matter. He had heard conflicting information coming from Kosovo in recent months on the involvement of the Priština Corps and he expressed concern about the promotion of General Pavković as commander of the 3rd Army. President Milošević noted that a mistake had been made and that members of the VSO should have received listings, containing more information about each promotion, along with the proposals for promotion. He ordered General Ojdanić to provide those files to the members of the VSO. After looking at these documents, President Djukanović stated that the information provided was quite sufficient. President Milošević stated that there had been no complaints about any illegal actions by the Priština Corps, either from abroad, or from any side, and that exceptional discipline and organisation had been demonstrated by the army. President Milutinović added that some reports of alleged lack of discipline and unconstitutional actions by the Priština Corps were usually inflated. Following this discussion, the VSO unanimously adopted the final position: "In Kosovo and Metohija, the Yugoslav Army operated in accordance with the Rules of Service. The Priština Corps carried out its tasks very successfully".¹⁴⁵

76. General Dimitrijević testified that during the summer of 1998, when actions in KiM were completed, some members of the MUP took advantage of the situation and looted private property. After he and General Perišić advised President Milošević of these problems, President Milošević ordered the Minister of the Interior to take the most energetic measures possible against such individuals and to ensure that such conduct was not repeated.¹⁴⁶

77. All changes to personnel in the VJ were always carried out in strict compliance with the law, and in particular on the orders of the President of the FRY who had

¹⁴⁵ P1000,pgs.9-10.

¹⁴⁶ Tr.26759.

exclusive authority in these matters pursuant to Article 136 of the *Constitution of the FRY* and Article 151 of the *Law on the Army of Yugoslavia*.¹⁴⁷

78. The military and political situation in the region, the problems associated with terrorism, the situation at the state border with the Republic of Albania, and the threat of NATO aggression against the FRY were discussed at four meetings: the fifth session of the VSO on 9 June 1998, the sixth session of the VSO on 4 October 1998, the eighth session of the VSO on 25 December 1998, and the ninth session of the VSO on 23 March 1999. Unanimous conclusions were adopted by the VSO concerning these matters, except for the eighth session on 25 December 1998, where no position was proposed or adopted in relation to the prevailing military and political situation. The conclusion adopted at the sixth session was repeated as the standpoint of the VSO at its ninth session.

79. At the fifth session of the VSO on 9 June 1998, General Perišić presented a detailed analysis of the military and political situation in the region and at the state border to the Republic of Albania. He provided an assessment of the level of danger to the FRY from separatist terrorist activities in KiM, the training of terrorists in the Republic of Albania who were being prepared to be sent to the FRY, and the threat of NATO intervention against the FRY.¹⁴⁸ Following the presentation by General Perišić, all the members of the VSO unanimously adopted the following conclusions:

Regarding the item of the agenda, FRY President Slobodan Milošević proposed, and the Council unanimously adopted the following conclusion:

First, the report by the Chief of General Staff is hereby accepted.

Second, should terrorist activities of the Albanian separatist movement escalate, the Army of Yugoslavia will intervene in adequate measure.

Third, the Army of Yugoslavia will be prepared to oppose any form of foreign intervention that might endanger the sovereignty and territorial integrity of the FR Yugoslavia.¹⁴⁹

¹⁴⁷ Tr.16483,16485-16487.

¹⁴⁸ 4D106,pgs.1-2,4-10.

¹⁴⁹ 4D106,pgs.2,10.

80. At the sixth session of the VSO on 4 October 1998, General Perišić presented the VSO with an interpretation of the current military and political situation in the region. This meeting was held shortly after the adoption of UN Security Council Resolution 1199 on 23 September 1998.¹⁵⁰ General Perišić makes specific reference to this Security Council Resolution and he presents an evaluation of the need to find a political and peaceful resolution to the problems in KiM, in the light of the activities of the separatist terrorist activities of the KLA, and the possibility of strikes from NATO forces against the FRY.¹⁵¹ The firm and unequivocal position of all the participants at this meeting is that a political solution for the problems in KiM must be found and that there should be full compliance with the Security Council resolution. In particular, Mr. Milutinović stated:

Milan MILUTINOVIĆ:

I think that General PERIŠIĆ made his point. The first option is the diplomatic one, and one is to do everything to avoid situations like this. I think that the reason shall prevail with everyone conceiving the matters in their respective fashion. This, what General PERIŠIĆ said, is holding when the situation with NATO is concerned, etc. I think that the reason shall slowly, slowly prevail with them too, and moreover, if one is to look into entire UN Resolution carefully, point by point, we have fulfilled practically everything. I mean, if there is anything else to do we should do it, just to prevent this from happening.

However, if they strike us anyway, then we have to be prepared maximally for the situation like that, since we have to defend ourselves.

This is what I wanted to say.¹⁵²

At the end of this meeting, the VSO unanimously adopted a conclusion:

While bringing the discussion to an end, the President of the FRY and the Supreme Defence Council, Slobodan MILOŠEVIĆ suggested that the conclusion of this session, that would be published in the information, be expressed in only one sentence:

Yugoslavia is firm in their choice of peace, and ready to solve all outstanding issues in a peaceful manner, but if we should be attacked, we will defend our country by all means.

This is what the Supreme Defence Council has to announce, in the situation which is the result of the whole atmosphere in the country. He once again stressed the standpoint that we would do anything to prevent the conflict, but if necessary, we have to defend our country. This is our duty, President MILOŠEVIĆ said.

¹⁵⁰ P456.

¹⁵¹ P1575;P2831.

¹⁵² P2831,pgs.10-11.

Both members of the Supreme Council accepted the proposal of President Slobodan MILOŠEVIĆ - President of the Republic of Serbia, Milan MILUTINOVIĆ, and the President of the Republic of Montenegro, Milo DJUKANOVIĆ.¹⁵³

81. At the ninth session of the VSO on 23 March 1999, on the eve of the declaration of the state of war and the start of the 78-day NATO bombing campaign against the FRY, the current military-political situation in the region and the threat of NATO aggression on the FRY was considered. Mr. Milutinović observed that politically and diplomatically the state delegation at Rambouillet had done everything to find a peaceful solution to the situation in KiM:

The President of the Republic of Serbia Milan MILUTINOVIĆ especially stressed that our delegation in Rambue (*sic*) did everything it could in order to find a peaceful solution to the problems in Kosovo and Metohija, but that the West had obviously decided to mark NATO 50th anniversary in a spectacular way, and there was every indication that it was ready to perform aggression on our country from the sea and from the air.¹⁵⁴

Bringing the discussion on this matter to a conclusion, President MILOŠEVIĆ highlighted the real danger of the aggression and reminded the VSO of the standpoint presented earlier at the sixth session of the VSO on 4 October 1998, namely: "Yugoslavia is firm in their choice of peace, and ready to solve all outstanding issues in a peaceful manner, but if we should be attacked, we will defend our country by all means".¹⁵⁵

82. The minutes and stenographic notes of the sessions of the VSO in 1998 and 1999 demonstrate that that VSO adopted conclusions and standpoints of a political and strategic nature in regards to the internal threat by the KLA and the external threat by NATO to the sovereignty and territorial integrity of the FRY. In particular, the conclusion adopted on the sixth session of the of the VSO on 4 October 1998 – "Yugoslavia is firm in their choice of peace, and ready to solve all outstanding issues in a peaceful manner, but if we should be attacked, we will defend our country by all means"¹⁵⁶ – is reiterated in the final meeting of the VSO held on 23 March 1999, the day before the commencement of the war.¹⁵⁷ The conclusion reflects nothing more than the

¹⁵³ P1575,pg.9;P2831,pgs.33-34.

¹⁵⁴ P1577,pgs.1-2.

¹⁵⁵ P1577,pg.2. P1575,pg.9;P2831,pgs.33-34.

¹⁵⁶ P1575,pg.9. P2831,pgs.33-34.

¹⁵⁷ P1577,pg.2. P1575,pg.9;P2831,pgs.33-34.

political standpoint of the VSO on the threat to the sovereignty of the FRY from the KLA and NATO and state policy on seeking a peaceful resolution to the problems in KiM. This conclusion is expressed in the conditional, such that all outstanding issues concerning KiM shall be resolved in a peaceful manner, but if the FRY should be attacked, the country will be defended by all means. Finding a peaceful solution to the problems in KiM is first and foremost the adopted position. The defence of the country is therefore contingent on being attacked.

83. In addition, according to the nomenclature used in the legal system in the FRY, a conclusion expresses the position or standpoint of an organ on a certain issue or matter. Conclusions are not legal enactments and they are not worded in the manner of legal documents. Both in formulation and content they differ from legal enactments such as laws, decrees, and decisions. A conclusion is binding only in political and moral terms, but not in terms of legal sanctions, whereas a decision, a "*resenje*," carries legal sanctions with it. In short, a decision is a legal act with a legal norm, with legal force, unlike a conclusion which has no legal force.¹⁵⁸ Conclusions adopted by the VSO reflect strategic decisions or policy decisions in a political or generic sense. The standpoint reflected in the conclusion adopted by the VSO is consistent with the purpose and function of this body, which is to give advice or counsel on matters brought before it, rather than issuing decisions itself.¹⁵⁹

84. To understand fully the function of the VSO and the import of the policy statement contained in the conclusions adopted at sessions of the VSO, an analysis of the only written operative decision and order issued by the President of the FRY in his capacity as Supreme Commander during the state of war is required.¹⁶⁰ Exhibit 3D670 is a subordination order issued by President Milošević to General Ojdanić on 18 April 1999.¹⁶¹ Of particular significance, is the preamble which states that the President of the FRY is issuing his order on the basis of the *Law on the Army of Yugoslavia* and the *Law on Defence* and "in accordance with the conclusions of the Supreme Defence Council",

¹⁵⁸ Tr.13036-13037.

¹⁵⁹ P604,pgs.29,37; Tr.13419.

¹⁶⁰ Tr.16978-16979.

¹⁶¹ Tr.16974-16975,16985.

namely the conclusion adopted at the sixth session of the VSO: "Yugoslavia is firm in their choice of peace, and ready to solve all outstanding issues in a peaceful manner, but if we should be attacked, we will defend our country by all means."¹⁶²

FEDERAL REPUBLIC OF YUGOSLAVIA
PRESIDENT OF THE REPUBLIC
 No: 112-02-001199-5
 18 April 1999
 B E L G R A D E

Pursuant to Article 4, paragraph 2, item 6, of the Law on the Yugoslav Army and Articles 8 and 40, paragraph 1, item 2, of the Law on Defence, and in accordance with the conclusions of the Supreme Defence Council SP /Strictly Confidential/ numbers 3-5 of 5 October 1998, I hereby

ORDER

1. Pursuant to Article 17 of the Law on Defence, units and organs of the interior in the territory of the FR /Federal Republic of/ Yugoslavia are to be resubordinated to the Yugoslav Army officer planning, organising and commanding combat operations, according to the tasks received in the assigned zones of responsibility.
2. Chief of the Supreme Command Staff will regulate by his order all other matters arising from item 1 of this order.
3. Chief of the Supreme Command Staff will send to the civilian government organs and other participants in defence requests whose implementation, in accordance with the existing laws and decrees, will contribute to the overall strengthening of the country's defence system and more successful fight against the aggressor's forces.

P R E S I D E N T
 /signed and stamped/
 Slobodan MILOSEVIĆ

85. This order provides clear and precise evidence of the following matters: civilian command of the VJ is exclusively within the purview of the President of the FRY in peacetime and in wartime, the function of the VSO, and the nature of its conclusions. The legislative basis for this order is Article 4(2), item 6 of the *Law on the Army of Yugoslavia*¹⁶³ and Articles 8 and 40(1), item 2 of the *Law on Defence*¹⁶⁴. These

¹⁶² P1575,pg.9. P2831.

¹⁶³ Annex 2,P984. IC133 is the correct version of Article 4 of the Law on the Army of Yugoslavia, Tr.26565-26566.

¹⁶⁴ Annex 2,P985.

provisions give effect to Article 135 of the *Constitution of the FRY*¹⁶⁵. As noted above, the conclusion from the sixth session of the VSO on 4 October 1998, was reiterated at the ninth session of the VSO on 23 March 1999, as the “standpoint” of the VSO, in relation to finding a peaceful political solution to the problems in KiM and the need for the country to defend itself, if attacked. It is on this basis and in this context that the President of the FRY issued this written order on 18 April 1999. He is the only competent federal organ – the “Supreme Commander” of the VJ – who is empowered under the constitution and federal legislation to make such a determination and render such an order. When the Supreme Commander issues an operative order, it is not necessary to involve or to consult the VSO. The legal requirements and involvement of the VSO in relation to state policy concerning the security situation in KiM and the threats to the sovereignty and territorial integrity of the FRY had been fulfilled and expressed at the sixth session of the VSO and repeated at the ninth session of the VSO. This political standpoint had been adopted unanimously in the form of a conditional conclusion after discussion and consultation among the members of the VSO.

86. Furthermore, the evidence in this case is clear that federal and republic bodies and institutions were competent regarding questions of war and peace and use of the VJ and the MUP in the defence of the country when it was attacked. The VSO and Mr. Milutinović in particular had no role, authority, or competence in relation to these decisions or determinations or in relation to the VJ, the MUP, or other formations engaged in the war effort. The VJ was a federal army which had the obligation to defend the sovereign territory, independence and constitutional order of the FRY.¹⁶⁶ It was commanded solely and exclusively by the President of the FRY. The organs of the Federal Government formulated policy, enacted and enforced federal legislation, other laws and general enactments, and ensured judicial protection in matters concerning the defence and security of the FRY.¹⁶⁷ The MUP was under the authority of the Minister of the Interior who was responsible to the Government of the Republic of Serbia and ultimately to the National Assembly. All other formations were under the authority of the VJ, the MUP or the federal Ministry of Defence. Furthermore, the VSO and Mr.

¹⁶⁵ Annex 2, ID139.

¹⁶⁶ Annex 2, ID139, Articles 133-134.

¹⁶⁷ Annex 2, ID139, Article 77.

Milutinović in particular played no role in deliberations, considerations, or decisions concerning proclamations of the imminent threat of war, the state of war, or the cessation of the state of war.

87. Similarly, the conclusion adopted unanimously by all the members of the VSO on 9 June 1998 – “should terrorist activities of the Albanian separatist movement escalate, the Army of Yugoslavia will intervene in adequate measure” – was followed by an operative order issued by the President of the FRY on 21 July 1998 to fight terrorism in KiM.¹⁶⁸ In the period between March and July 1998, the forces of the KLA had increased and become stronger in numerical strength, weapons, organisation, aggressiveness of their tactics, etc. This resulted in the KLA having taken control of approximately fifty percent of the territory of KiM, including the main access roads. Acts of terrorism against civilians and organizations and institutions of the Republic of Serbia and the FRY – including the MUP and the VJ – escalated. Serb villages and companies were under attack by the KLA. Serbs, non-Albanians and Albanians believed to be sympathizers were targeted for intimidation, kidnapping, torture and killing by the KLA.¹⁶⁹ The plan for fighting terrorism was prepared, submitted and approved by the President of the FRY.¹⁷⁰

Mr. Milutinović Was Not a Member of the Supreme Command

88. Contrary to the allegations in the indictment, Mr. Milutinović was not a member of a body called the Supreme Command. These allegations are completely unfounded and incorrect both in law and in fact. The facts in this case are clear. The only civilian who had authority in peacetime and wartime exclusively over the VJ according to the *Constitution of the FRY* and the *Law on the Army of Yugoslavia* and the *Law on Defence*

¹⁶⁸ 4D100: “At the meeting with the President of the FRY held in his office on 21 July 1998, an order was given to implement the Plan for Combating Terrorism in Kosovo and Metohija; 4D101, refers to the “briefing with the president of the Federal Republic of Yugoslavia on 21 July 1998 when the order was given to commence implementation of the plan”. See, also 4D119 and P1439, para.2: “The plan to smash the DTS/sabotage forces/ on the territory of KiM, authorized by the President of the FRY, stipulated that when the DTS on the territory of KiM have been smashed by MUP and VJ forces, rapid-intervention forces shall be formed to be at full readiness, with the engagement of MI-8 helicopters, to intervene at threatened sectors and features, as ordered by the President.

¹⁶⁹ P2645,pg.8, para.36; Tr.p.6017; Tr.14652-14653; P2889; Tr.14145-14146; Tr.14397-14398, 14400-14401; 2D364.

¹⁷⁰ 3D1084,paras.13-14.

was the President of the FRY. As Supreme Commander, he had his command staff, which during the state of war was called the Supreme Command Staff (in peacetime it was called the General Staff of the VJ). This body, comprising the Supreme Commander and the Supreme Command Staff, was called the Supreme Command. The President of the FRY was the only civilian in the Supreme Command. This organisation is consistent with the principle military doctrine of subordination and singleness of command: each commander has his staff which implements his orders. Mr. Milutinović never had any connection whatsoever with the Supreme Commander or the Supreme Command Staff in law or in fact.

89. In relation to the term "Supreme Command", as a preliminary matter, it should be pointed out that the expressions "Supreme Command", "Supreme Commander" and "Supreme Command Staff" do not exist in the *Constitution of the FRY*, the *Constitution of the Republic of Serbia*, any legislation, or the Rules of Service of the VJ.¹⁷¹ The term "Supreme Command" had existed in the legal regime of the SFRY.¹⁷² Slobodan Kosovac, the Chief of Department for Organisation on the VJ General Staff/Staff of the Supreme Command testified that in 1996 a working group of the VJ prepared materials which defined the concepts of the "Supreme Commander" and the "Supreme Command" and their respective rights and obligations.¹⁷³ Branko Gajić, Assistant Chief of the Security Administration of the Supreme Command Staff, testified that orders issued by the Supreme Command Staff were based on Article 5 of the *Law on the Army of Yugoslavia* and that it was accepted that during the state of war, the "General Staff" was called the "Supreme Command Staff".¹⁷⁴ General Djordje Ćurčin, the Chief of the 1st Administration of the Supreme Command Staff,¹⁷⁵ testified that the collegium of the Chief of the General Staff was called the General Staff in peacetime. During the war it was called the Staff of the Supreme Command. The constitution or legislation did not provide for the General Staff being called the Staff of the Supreme Command during a state of war. It was the practice.¹⁷⁶

¹⁷¹ Tr.15153-15154.

¹⁷² Tr.15296-15297;Tr.16842.

¹⁷³ Tr.15878-15879.

¹⁷⁴ Tr.15296; 15435.

¹⁷⁵ 3D1121,para.3.

¹⁷⁶ Tr.17008.

90. This evidence is corroborated by the Submission by Serbia and Montenegro pursuant to Rule 54bis, which stated that no state organ with the name "Supreme Command" existed according to the *Constitution of the FRY*, the *Law on Defence*, and the *Law on the Army of Yugoslavia*. The term "Supreme Command Staff" was used as a synonym for the wartime organisation of the "General Staff".¹⁷⁷

91. The relevant constitutional and legislative provisions from the SFRY concerning the terms "Supreme Commander" and "Supreme Command Staff" are exhibits in this case. The *Constitution of the SFRY* (1974-1992) provided that the Yugoslav People's Army (JNA) was a federal army and that the federation through its agencies regulated the administration and command of the Armed Forces of the SFRY and exercised supreme command over the Armed Forces.¹⁷⁸ The President of the Republic was the Supreme Commander of the Armed Forces of the SFRY for as long as that position existed (Josip Broz Tito held the position of President for life).¹⁷⁹ Tito, as Supreme Commander, directed and commanded the Armed Forces of the SFRY and determined the fundamentals of plans and preparatory measures for the defence of the country.¹⁸⁰ The General Staff of the JNA, as a part of the Federal Secretariat for National Defence, was directly subordinate to the Supreme Commander. After Tito's death in 1980, a collective body of eight members, the Presidency of the SFRY¹⁸¹ became the highest organ exercising command and control over the SFRY armed forces.¹⁸² The President of the Presidency commanded the SFRY armed forces in the name of¹⁸³ the Presidency.¹⁸⁴ The General Staff of the JNA, as a part of the Federal Secretariat for National Defence, performed tasks for the needs of the Presidency of the SFRY in relation to all-people's defence, as the "Armed Forces Supreme Command Staff".¹⁸⁵

¹⁷⁷ 1D35, paras. 2-4.

¹⁷⁸ 1D682, paras. 2.31 and 2.33. P1623, Articles 281(6), 316(1), 283(5).

¹⁷⁹ Annex 2, P1623, Article 335(3).

¹⁸⁰ Annex 2, P1623, Article 342(1).

¹⁸¹ Annex 2, P1623, Articles 313(3), 328(2)(6).

¹⁸² 1D140, Article 106.

¹⁸³ The English translation of "*u ime /y ime/*" is "in the name of".

¹⁸⁴ Annex 2, P1623, Article 328(4); 1D140, Article 107.

¹⁸⁵ Annex 2, 1D140, Law on All-People's Defence, Article 79. As amended by 1D71, Law on Amendments to the Law on All People's Defence, Article 26: "In para. 3 of Article 79, at the end, a new

92. In the FRY, there existed no collective civilian body in law or in fact that had or could have had authority, command, or control over the VJ, the MUP, or other fighting forces. In particular, the allegations made by the Prosecutor that the VSO became the Supreme Command during a state of war or that Mr. Milutinović was a member of the Supreme Command are completely incorrect.

93. The VSO did not meet after 23 March 1999 or at any time during the state of war (24 March-24 June 1999). This is established through a number of sources. The constitutions and the laws and the minutes¹⁸⁶ and stenographic notes¹⁸⁷ of sessions of the VSO for 1998 and 1999. The statement Mr. Milutinović gave to the Prosecutor.¹⁸⁸ The testimony of several witnesses who were members of the Supreme Command Staff testified that they had no knowledge of any meetings of the VSO after 23 March 1999.¹⁸⁹ Jovan Kojić, an administrative officer in Mr. Milutinović's office, testified that there was only one meeting of the VSO in 1999, just before the NATO air strikes began.¹⁹⁰ This corroborates the Submission of Serbia and Montenegro pursuant to Rule 54bis which states that according to all available information, the VJ before, during and after the state of war in 1999, was under the command of the President of the FRY, in accordance with the decisions of the Supreme Defence Council. The Supreme Defence Council did not convene between 23 March 1999 and 5 October 2000.¹⁹¹

94. The VSO had no reason to convene during the period of the state of war. As previously reviewed in these Submissions, the VSO had no role to play in making determinations on matters concerning planning, ordering, etc. or rendering executive orders in the defence of the FRY. The political standpoint contained in the conclusions adopted unanimously by the VSO on the 4 October 1998 and reiterated on 23 March 1999 – "Yugoslavia is firm in their choice of peace, and ready to solve all outstanding

sentence shall be added to read as follows: "In performing these duties, the Federal Secretariat for People's Defence acts as the Armed Forces Supreme Command Staff".

¹⁸⁶ 4D106,P1575,P1576,P1000,P1577.

¹⁸⁷ 1D760, P2831, 1D761.

¹⁸⁸ P604,pg.31.

¹⁸⁹ Tr.15155-15156; Tr.15710-15711; Tr.16486-16487; Tr.16580; Tr.16842;26643-26644,26661-26662.

¹⁹⁰ 1D741,paras.2-4,32.

¹⁹¹ 1D35,para.2.

issues in a peaceful manner, but if we should be attacked, we will defend our country by all means” – was the pronouncement of state policy regarding the resolution of the problems in KiM through peaceful means and the need to defend the country, if attacked. There was no need or purpose constitutionally, legally, or factually for the VSO to convene or for its members to be consulted during a state of war. At that point, federal institutions proclaimed a state of war, initiated mobilization, and took over in the defence of the country.

95. At no time was Mr. Milutinović ever consulted and at no time did he ever participate in any way whatsoever in matters concerning questions of war and peace or the defence of the FRY. Mr. Milutinović was not required by law or authorized in any way or on any basis to be involved in these matters. Command and control of the VJ was entirely within the purview of the President of the FRY, the Supreme Commander, who commanded the VJ through his staff, the Supreme Command Staff. The MUP was under the authority of the Minister of the Interior, according to the laws and regulations of the Republic of Serbia. These were the competent structures, organs, and individuals which were legally authorized and required to deal with issues concerning the war and peace and the defence of the country. These matters were quite simply not within the purview of Mr. Milutinović, constitutionally, legally or factually.

96. When Mr. Milutinović was interviewed by investigators from the Office of the Prosecutor he told them that when the state of war was declared by the Federal Government on 24 March 1999, everything moved up to the federal level. The President of the FRY commanded the VJ through the Staff of the Supreme Command. The President of the Republic of Serbia and the President of the Republic of Montenegro had no authority and played no role in the defence of the country. The President of the FRY, the Supreme Commander, was the commander of the Supreme Command, who issued his orders through the Chief of the Staff of the Supreme Command, General Ojdanić. Mr. Milutinović never had any contact with the Staff of the Supreme Command and he had no role with regards to defence.¹⁹² He was never in any meetings with President Milošević in which they discussed the VJ or any actions in KiM. Mr. Milutinović knew

¹⁹² P604,pgs.36-37,70,144-146.

that there were conflicts on the ground between the KLA and the VJ, but he was so preoccupied with other matters¹⁹³ that he did not follow the situation on the ground in KiM at all.¹⁹⁴

97. The evidence is clear that during the state of war, the President of the FRY, Slobodan Milošević was referred to as the "Supreme Commander". Milovan Vlajković, the Chief of Office of the Chief of the Supreme Command Staff testified that in early April he was told by General Šušić, Chief of the Military Cabinet of President Milošević that documents sent by the Supreme Command Staff to President Milošević were to be addressed to the "Supreme Commander".¹⁹⁵ Numerous witnesses who were members of the Supreme Command Staff testified that President Milošević was the "Supreme Commander".¹⁹⁶ In the daily briefings of the Supreme Command Staff, the abbreviation "VK" stands for "Supreme Commander" and "VK-DA" stands for "Supreme Command".¹⁹⁷ Finally, numerous wartime editions of *Vojška*, an official publication of the VJ, refer to President Milošević as the Supreme Commander or Commander-in-chief.¹⁹⁸

98. Members of the Supreme Command Staff testified in relation to the composition, structure, functioning, and relationship between the Supreme Commander and the Supreme Command Staff.¹⁹⁹ Prosecution witness, General Aleksandar Vasiljević was reinstated into the VJ in April 1999 and became the assistant to General Geza Farkaš, the Chief of the Security Administration.²⁰⁰ He testified that during a state of war the President of the FRY was the Supreme Commander and the General Staff of the VJ was the Supreme Command Staff. The Supreme Commander gave direction to the VJ through the Supreme Command Staff, which was headed by the Chief of the Supreme Command Staff, General Ojdanić. He described the chain of command and the

¹⁹³ Part 4, 78 Days of War.

¹⁹⁴ P604, pgs. 123, 125.

¹⁹⁵ Tr. 16092.

¹⁹⁶ Tr. 15041-15042; Tr. 15415; Tr. 15627; Tr. 15782-15784; Tr. 16032; 3D1117, para. 29; Tr. 16908-16909.

¹⁹⁷ 3D1125. Tr. 15414-15416; Tr. 16097; Tr. 16487-16488.

¹⁹⁸ 1D459, 1D460, 1D461, 1D462, 1D463, 1D467, 1D468.

¹⁹⁹ Milan Kotur, Tr. 20750: "The supreme commander of the Command was Mr. Milošević, and Ojdanić was the first person next to him and the most competent one in the professional sense."

²⁰⁰ Tr. 8642.

relationship between the Supreme Commander and the Supreme Command Staff as follows:

15. Chain of command. In principle, Milošević's directions would have been transformed into combat activities in the following way: Milošević, as Supreme Commander, would issue a basic task to the VJ Chief of the General Staff/Supreme Command Staff, for example, to neutralise the KLA. The Chief and his staff would then conduct an assessment which would lead to a Proposal of a Decision for the Use of the VJ. This draft would go to Milošević for authorisation. Any necessary amendments would be incorporated before it would be signed. A Decision for Use of the VJ would then be issued to strategic groups who would, in turn, issue directives to their subordinate commands who developed plans and orders of their own for further dissemination down the chain-of-command.
16. Information flow and reporting Information flowed regularly up and down the chain of command. Members of the Supreme Command were kept informed of events on the ground. Ojdanić would brief Milošević on a regular basis. I assume that Milošević also received daily combat reports from the Supreme Command Staff.²⁰¹

General Vasiljević stated that President Milošević was the only person giving direction to the VJ through the Supreme Command Staff.²⁰²

99. On two occasions – at the end of his first day of testimony²⁰³ and on the last day of his testimony²⁰⁴ - Branko Gajić, Assistant Chief of the Security Administration of the Supreme Command Staff, was questioned by the Trial Chamber about the Supreme Command. He testified that the Supreme Command was composed of the President of the FRY and the General Staff of the VJ. No politicians ever attended meetings of the Supreme Command.²⁰⁵ The Supreme Command did not include the President of Serbia and the President of Montenegro.²⁰⁶ He had no knowledge of any meetings of the VSO between March and June 1999.²⁰⁷ He knew of no other politician other than the President of the FRY being a member of the Supreme Command.²⁰⁸

100. Miodrag Simić, the Assistant to the Chief of the Supreme Command Staff for the land army, testified that during the state of war the President of the FRY was the

²⁰¹ P2600, paras. 15-16.

²⁰² Tr. 8643.

²⁰³ Tr. 15296-15297 (7 September 2007).

²⁰⁴ Tr. 15434-15438 (12 September 2007).

²⁰⁵ Tr. 15437-15438.

²⁰⁶ Tr. 15296; 15434-15435.

²⁰⁷ Tr. 15297.

²⁰⁸ Tr. 15437-15438.

Supreme Commander, the General Staff of the VJ was called the Supreme Command Staff. The Supreme Command was comprised of Supreme Commander and the Supreme Command Staff. He explained that at the head of every command – including the Supreme Command – is the commander whose staff transforms orders of the commander in a technical sense into a particular document and then sends this document to those subordinated to him to carry out the order. The staff is in charge of all combat documents in the spirit of the commander's decision.²⁰⁹ He testified that once there is a declaration of war, the President of the FRY becomes the Supreme Commander. The other members of the Supreme Defence Council are not within the composition of the Supreme Command in order to exercise direct command over the VJ. This would disrupt the fundamental elementary principle of subordination and singleness of command.²¹⁰

101. The Prosecutor questioned General Simić about the earlier testimony of Milorad Obradović who testified that the VSO became the Supreme Command during a state of war.²¹¹ General Simić disagreed. He pointed out that General Obradović was not a member of the Supreme Command Staff after the end of March 1999, when he left to become the commander of the 2nd Army in Montenegro.²¹² General Simić was a member of the Supreme Command Staff beginning 4 April 1999 and for the entire period of the war.²¹³ He testified that The Supreme Defence Council did not and could not become the Supreme Command based on the principle of singleness of command. The President of the FRY, as Supreme Commander or Commander-in-Chief, could not be commanding the army over the two other members of the Supreme Defence Council. That was not the case.²¹⁴ The President of the FRY commanded the army in accordance with the decisions of the VSO.²¹⁵ He did not know whether the VSO met during the war. He knew that the VSO met for the last time in its full composition in December 1998 and that in October 1998 the VSO decided that if the country is attacked, then it would defend itself using all assets.²¹⁶

²⁰⁹ Tr.15598-15600.

²¹⁰ Tr.15603.

²¹¹ Tr.15526-15527.

²¹² Tr.14916-14917, 15024-15025;Tr.15625-15626.

²¹³ Tr.15470.

²¹⁴ Tr.15627.

²¹⁵ Tr.15627.

²¹⁶ Tr.15628.

102. Spasoje Smiljanić, the commander of the air force and air defence, testified that once a state of war is declared the President of the FRY becomes the "Supreme Commander", the General Staff of the VJ becomes the "Supreme Command Staff", and the Chief of Staff of the VJ becomes the "Chief of Staff of the Supreme Command".²¹⁷ He explained that all commands comprise a commander and his staff: Army, Corps, and Regiment. In order to comply with the principle of singleness of command there can only be one commander and his staff works for the commander and has the function of helping implement the commander's orders. Singleness of command is a fundamental principle of the Rules of the VJ, which means that there is one commander, one decision, and one responsibility.²¹⁸ As soon as the declaration of war was proclaimed, the President of the FRY - the Supreme Commander - joined with his Staff and together they made up the Supreme Command.²¹⁹ Smiljanić testified that there were no non-military persons other than President Milošević that were a part of the Supreme Command.²²⁰

103. Members of the Supreme Command Staff testified that President Milošević, the Supreme Commander met every morning during the war with General Ojdanić, the Chief of the Supreme Command Staff. Branko Gajić testified that during the war, the Supreme Commander, the Supreme Command Staff and the Chief of the Supreme Command Staff were together at the command post. Every morning, General Ojdanić went to the Supreme Commander to submit a report on the previous 24-hour period about the activities in that period, and to receive daily assignments from him.²²¹ Djordje Ćurčin, the Chief of the 1st Operations Administration also gave evidence regarding the daily morning meetings between President Milošević and General Ojdanić. The Chief of the Supreme Command Staff received his orders from the President of the FRY. During the war, Mr. Ćurčin knew of one written order that passed from the President of the FRY to General Ojdanić: the order on resubordination, date 18 April 1999.²²² No other written orders were received in the operations administration. The members of the Staff of the

²¹⁷ Tr.15782-15783.

²¹⁸ Tr.15755.

²¹⁹ Tr.15783.

²²⁰ Tr.15784.

²²¹ Tr.15417.

²²² 3D670.

Supreme Command learned about the meetings between President Milošević and General Ojdanić every day, particularly at evening briefings, through the assignments that they received. At the level of the Supreme Command Staff, it was the Chief of the Supreme Command Staff that issued orders to commanders of armies. Commanders of armies issued orders to corps commanders. Corps commanders issued orders to brigade commanders, and so on.²²³ There is no evidence of any other civilians being present at the daily meetings between President Milošević and General Ojdanić.²²⁴

104. The flow of documents went directly between the military office of the Supreme Commander, President Milošević and the office of the Chief of the Supreme Command Staff, General Ojdanić. Milan Radoičić was the Chief of the Office of the Chief of the Supreme Command Staff and he was responsible for sending all documents to the military office of the Supreme Commander. He testified that General Ojdanić was directly subordinated and responsible to President Milošević.²²⁵ His communications with the military office of the President of the FRY went through the chef de cabinet of the military office or his deputy or any responsible person that was in charge of a task, including the secretary of the chief of the military office of the President of the FRY.²²⁶ The evidence is that Mr. Milutinović was never present at or connected to the military office of the President of the FRY.²²⁷

105. As clearly demonstrated through the testimony of General Vasiljević, General Gajić, General Simić, General Smiljanić, and others,²²⁸ based on the principle of singleness of command, the Supreme Commander commanded the VJ through his staff – the Supreme Command Staff. The Supreme Commander and the Supreme Command Staff comprised the Supreme Command. Despite this evidence, including the testimony of Prosecution witness General Vasiljević, during the presentation of the defence cases, the Prosecutor questioned witnesses on the basis that the “Supreme Command” was separate and distinct from the “Supreme Command Staff”. For example, the Prosecutor

²²³ Tr.16978-16979.

²²⁴ Tr.17068.

²²⁵ Tr.16134-16135;3D1111,para.3.

²²⁶ Tr.16135-16136.

²²⁷ Tr.26661.

²²⁸ Tr.15415; Tr.15627; Tr.15782-15784; Tr.16032; 3D1117,para.29; Tr.16908-16909;Tr.26643-26645,26660-26662,

cross-examined two witnesses – General Ćurčin and General Ljubomir Andjelković – in relation to the composition of the Supreme Command Staff, based on the Briefing Session held on 29 March 1999.²²⁹ They were asked to comment on the following excerpt:

3D582, page 5. General OJDANIĆ :

- The collegium did not meet because I was otherwise engaged. You have given it some thought and made a more concrete analysis ... and tasks that improve.. and combat readiness, and give more power to VJ's combat operations. We have ...I will not be here all the time, being a member of the Supreme Command Staff, but the tasks are... It is certain that nothing can.. .us.. .or better still, those who were the target of destruction with., and are the product of proper., commands and units, to keep moving ahead, and constant manoeuvre in the territory.. and commands, and by repositioning KM /command posts/. An order to be given for everyone to record the problems they /?are encountering/. In our experience, if a KM is solid and has been revamped and does not provide safety /as written/, i.e. those built before...when means of destruction were not so powerful.

106. General Ćurčin pointed out the following: a) the collegium of the Chief of Staff was made up of the General Staff of the VJ, b) when the war started, a part of the General Staff remained in the General Staff building, c) another part of the General Staff went to the Reserve Command Post, and, as the most qualified staff organ to determine the use of the army, became the Supreme Command Staff, and d) the evening briefings were attended by some of the first assistants or their officers who were at the command post. When the evening briefing was held on 29 March 1999, the precise composition of the members of the Supreme Command Staff was still being constituted on the fifth day of the war.²³⁰ He testified that in relation to the sessions of the collegium of the Chief of the General Staff and the evening briefings, their method of work was different and the participants were not the same.²³¹ He noted that these minutes were not composed in complete sentences, which created confusion when trying to interpret them. He felt that the person who had taken these minutes did not manage to put things down very well.²³² He observed that General Ojdanić probably had obligations, either towards President Milošević or somebody else, and he did not arrive on time for the beginning of the briefing. He arrived later and explained that he had been away because he had other

²²⁹ 3D1125;3D582.

²³⁰ Tr.19939-16940;17003-17008; 26662-26663.

²³¹ Tr.19939-16940;17003-17008.

²³² Tr.17006.

duties. The list of participants also indicated that some of the first assistants were not present and probably had other duties and tasks to perform.²³³

107. When General Andjelković was asked to comment on this excerpt from Exhibit 3D582, he said that President Milošević was the most senior member of the Supreme Command, so he was the supreme commander, and that along with him, the other members of the Supreme Command were the presidents of the republics. General Andjelković is clearly describing the VSO and not the Supreme Command.²³⁴

108. It is noteworthy that two other attendees at the evening briefing held on 29 March 1999 testified at trial: General Gajić and General Krga. They were not asked any questions by the Prosecutor in relation to the above-mentioned passage from Exhibit 3D582. They did however give the following evidence. General Gajić testified that the Supreme Command was composed of the President of the FRY and the General Staff of the VJ. It did not include the President of Serbia and the President of Montenegro²³⁵ and he knew of no other politician other than the President of the FRY being a member of the Supreme Command.²³⁶ General Krga stated that the President of the FRY commands the army in peacetime and in war time in accordance with the decisions of the VSO and that President Milošević was referred to as the "supreme commander" by generals and others during the war. When asked directly by the Prosecutor whether the "Supreme Command" is the wartime equivalent to the "Supreme Defence Council" he stated categorically that there was no collective civilian body in the FRY that commanded the VJ.²³⁷ In addition, the Prosecutor did not raise these matters with two other senior officers who were present at this briefing, who testified at trial: General Slobodan Petković and Admiral Vlada Nonković.

109. There was evidence about the use of the word "Supreme Command" during a session of the collegium of the Chief of the Supreme Command Staff held on 9 April 1999. At one point, General Ojdanić, made the following intervention:

²³³ Tr.17007.

²³⁴ Tr.16424-16426.

²³⁵ Tr.15296;15434-15435.

²³⁶ Tr.15437-15438.

²³⁷ Tr.16908-16909.

I mention that a conclusion should be given which will confirm how that will affect the possibility of continuing the armed struggle particularly from the perspective of time, to conduct an armed struggle in conditions of the predicted further course of the war. As for me, as early as tomorrow I will ask the Supreme Command to thoroughly acquaint itself with this material regardless of how extensive it is and I think that it will not be very extensive. I will suggest that after that in a group determined by the Supreme Commander²³⁸ the president brief that group to a lesser extent on the stands, assessments, conclusions and proposals of the Staff of the Supreme Command as regards what should be done at this time.

Since I am not issuing any other tasks, apart from the one for NONKOVIĆ, regarding this case down there on the Albanian-Yugoslav border to...not in the RV or...I think, the General Staff must do that, to immediately give the basic characteristics of resources and perhaps some other things that General KOVAČEVIĆ mentioned and also in the assessment of GRAHOVAC in which you give basic tactical-technical data without being frightened to stress any possible weaknesses and emphasise in particular the way to conduct war against the same resources with the possibility of suggesting action with the aim of avoiding major losses particularly in manpower but also in hardware. That is our joint concept. I hope that from the point of view of operations you have nothing against because it would be paradoxical to expect that someone, any one of us, could now withdraw and give me proposed conclusions and tasks for the further conduct of the armed struggle and oppose the armed aggression against our country. If you are agreed.²³⁹

General Simić was present the collegium held on 9 April 1999. He explained that following evening briefings of the Supreme Command Staff a report was prepared for the Supreme Commander, underlining the problems that the Chief of Staff could not resolve. This report was also transmitted to 15 or 16 addressees, including the members of the VSO, the federal prime minister, government ministers, etc. There were enormous problems concerning obsolete and inefficient war technical equipment. There were matters related to civil defence and civilian protection. Each recipient of a report had his own degree of responsibility in these matters in accordance with the office he held. In the above-quoted excerpt, General Simić understood General Ojdanić to be saying that he would ask President Milošević to determine which individuals from the list of addressees needed to be briefed on the stands, assessment, conclusions and proposals of the Supreme Command Staff in relation to these matters.²⁴⁰ General Simić was however clear and categorical throughout his testimony that the Supreme Command was composed of the Supreme Commander and his staff, the Supreme Command Staff.

²³⁸ Tr.15608-15609. Correction made by the interpreters.

²³⁹ P929,pg.30.

²⁴⁰ Tr.15608-15612.

110. Exhibit 3D728, the evening briefing held on 11 April 1999 indicates that a meeting was scheduled to be held the following day at 0900 when a draft plan would be submitted for study at a briefing with the Supreme Commander, President Milošević. The relevant portion of the briefing reads, as follow:

Colonel General OJDANIĆ

- Submit the draft plan for study, the briefing will be at 0900 with the VK /Supreme Commander/

Present: the Deputy OŠP /?for Operations and Staff Affairs/, Chief of the Operations Administration, Chief of the ŠVK /Supreme Command Staff/, Lieutenant General SMILJANIĆ, Major General KRGa, President MILOŠEVIĆ, President MILUTINOVIĆ and Sreten, adjutant of the MUP unit from Kosovo, 2nd Lieutenant ŠAJINOVIĆ and Colonel General PAVKOVIĆ²⁴¹

The first matter that arises from a review of Exhibit 3D728 is that the translation of “VK” as “Supreme Command” is incorrect. The evidence in the case is that the abbreviation “VK” stands for “Supreme Commander” and “VK-DA” stands for “Supreme Command”.²⁴²

111. General Gajić was shown this exhibit and his testimony was clear and categorical that no politician other than President Milošević was a member of the Supreme Command.²⁴³ Milovan Vlajković testified that based on his knowledge and experience as chief of office, he did not know if the civilians listed in this exhibit or other civilians could possibly attend briefings by the Chief of Staff.²⁴⁴ He knew that Mr. Milutinović never attended meetings of the Supreme Command Staff.²⁴⁵

112. On 12 April 1999, President Milošević was present at a meeting of the Supreme Command Staff. Exhibit P1480 is the order drafted by Djordje Ćurčin, signed by General Ojdanić and sent to the commander of the 3rd Army, General Pavković on 9 April

²⁴¹ Exhibit 3D728,pg.3.

²⁴² 3D1125. Tr.15414-15416;Tr.16097;Tr.16487-16488.

²⁴³ Tr.15296-15297,15434-15438.

²⁴⁴ Tr.16099-16100.

²⁴⁵ Tr.16093-16094.

1999.²⁴⁶ This preparatory order indicates that General Pavković was to submit his proposal for a decision of the Supreme Command Staff by 2000 hrs on 10 April 1999 and that the report of the proposal for a decision would be submitted on 11 April 1999 at the Supreme Command Staff in the presence of the Supreme Commander. Exhibit 4D420 is report sent by General Pavković to General Ojdanić on 20 April 1999, which indicates that at the meeting of the Supreme Command Staff held on 12 April 1999, the Supreme Commander issued tasks.

113. Furthermore, exhibit 3D728 lists three members of the Supreme Command Staff who testified at trial: the Chief of Operations Administration, Djordje Ćurčin, General Smiljanić, and General Krga. General Ćurčin testified that General Pavković briefed the staff of the Supreme Command, where the Supreme Commander was present.²⁴⁷ General Smiljanić and General Krga were not asked any questions about a meeting with the Supreme Commander, pursuant to the order issued by General Ojdanić on 9 April 1999.²⁴⁸ However, during his testimony, General Smiljanić stated that the only non-military person in the Supreme Command was the Supreme Commander, President Milošević.²⁴⁹ General Krga testified that no collective civilian body commanded the VJ and that he had no knowledge about the VSO, including Mr. Milutinović, becoming the Supreme Command.²⁵⁰ There is no evidence that Mr. Milutinović was present at the briefing held on 12 April 1999.

114. When General Ojdanić was advised by General Farkaš on 13 May 1999 about information collected by General Vasiljević and General Gajić concerning crimes committed by members of the VJ against civilians in KiM, General Ojdanić immediately advised his immediate superior, President Milošević, and ordered his immediate subordinate, General Pavković to come to Belgrade. General Pavković was told by General Ojdanić to prepare a report on the matter for a meeting which was held with President Milošević on 17 May 1999. Mr. Milutinović did not attend this meeting. He

²⁴⁶ Tr.16965-16966.

²⁴⁷ Tr.16966.

²⁴⁸ P1480.

²⁴⁹ Tr.15755;15782-15784.

²⁵⁰ Tr.16906-16910.

was not convened to it, he was not aware that it took place, nor was there any reason for him to be made aware of it or to be connected to it in any way.²⁵¹

115. As a matter of law, the Appeals Chamber in the *Čelebići* case has ruled that it is the obligation of the Prosecution to ensure that its vital evidence is clear and unambiguous. An accused person should not be convicted upon the basis of a verbal ambiguity in that vital evidence. The Appeals Chamber wrote:

Where a Prosecution witness whose evidence is vital is able to clarify any ambiguity in that evidence, and where the Prosecution does not seek to have the witness do so, the inference is available that it did not do so because the evidence would not have assisted the Prosecution case. That is not to say that such an inference ought always to be drawn against the Prosecution, but its mere availability tends to render unsafe any resolution of the ambiguity in favour of the Prosecution.²⁵²

By parity of reasoning, the fact that the Prosecutor did not question many members of the Supreme Command Staff who were called to testify and put the Prosecutor's case against Mr. Milutinović to them, *to wit*, the alleged *de jure* and *de facto* powers of Mr. Milutinović as a member of the VSO and the allegation that he was a member of the Supreme Command, it should be inferred that the Prosecutor did not do so because the evidence would not have assisted the Prosecution case. The defence witnesses who were members of the Supreme Command Staff at the relevant time and who were not asked about these matters at all by the Prosecutor were: General Negovan Jovanović, General Slobodan Kosavac, General Milan Radoičić, General Vidoje Pantelić, General Vlade Nonković, General Milivoje Novković, General Geza Farkaš, General Nedjo Danilović, and General Slobodan Petković.

116. In short, the Prosecutor's contention that the "Supreme Command" is the wartime equivalent to the "Supreme Defence Council" or that the members of the Supreme Defence Council, including Mr. Milutinović, were members of the Supreme Command is untenable. The VSO did not become the Supreme Command and the Supreme Command did not include the members of the VSO or Mr. Milutinović. The VSO did not meet during the state of war that existed. There was no collective civilian body commanding

²⁵¹ P2594, paras.53-74, Tr.8750-8758; 3D1084 paras.154-155, Tr.15281-15292,15360. Tr.15284, 3D1055.

²⁵² *Čelebići*, Appeal Judgement, para.452.

or in any way connected to the Supreme Command Staff. The only Prosecution witness with first hand knowledge of these matters, General Aleksandar Vasiljević gave clear and unambiguous testimony: during a state of war the President of the FRY was the Supreme Commander and the General Staff of the VJ was called the Supreme Command Staff. The Supreme Commander gave direction to the VJ through the Supreme Command Staff. President Milošević was the only person giving direction to the VJ through the Supreme Command Staff.²⁵³ This testimony is identical to the testimony of senior VJ officers who were members of the Staff of the Supreme Command: General Gajić,²⁵⁴ General Simić,²⁵⁵ General Smiljanić,²⁵⁶ General Ćurčin,²⁵⁷ and General Krga²⁵⁸, and Court Witness, General Dimitrijević.²⁵⁹ In addition, the clear and overwhelming evidence from these witnesses is that President Milošević was the only civilian with any connection with the Supreme Command Staff. Mr. Milutinović had no connection with the Supreme Commander or the Supreme Command Staff.

INDICTMENT PARAGRAPHS 85, 86, 88, 89, 93: GENERAL ALLEGATIONS

117. Contrary to the allegations in paragraphs 85-86, the Republic of Serbia did not strip the province of Kosovo of its autonomy after 1989. The *Constitution of the Republic of Serbia* guaranteed the autonomy of both Kosovo and Vojvodina at the highest internationally recognized level.²⁶⁰ Furthermore, the *Constitution of the FRY* guaranteed the rights of minorities in accordance with international standards, and equality of all citizens²⁶¹ The Law on Territorial organization of Republic of Serbia (1991) and local self-governance and its amendments of 1992,²⁶² proscribed in detail the rights and obligations of the autonomous regions.²⁶³

²⁵³ Tr.8643;P2600,paras.15-16.

²⁵⁴ Tr.15296-15297;15434-15438.

²⁵⁵ Tr.15598-15603;15625-15628.

²⁵⁶ Tr.15755;15782-15784.

²⁵⁷ Tr.16978-16979;17068.

²⁵⁸ Tr.16906-16910.

²⁵⁹ Tr.26643-26645;26660-26661.

²⁶⁰ Annex 2,P855,Article 6.

²⁶¹ P856,Articles 17,20.

²⁶² 1D361.

²⁶³ 1D330.

118. By the mid 1980s, it was recognized that there were problems with the functioning of the Federation because of the SFRY Constitution (1974), and, as a result, the Constitutional amendments to SFRY Constitution were introduced in 1988.²⁶⁴ In fact, the problems in the functioning of Socialist Republic of Serbia and its autonomous provinces had been recognized less than a year after the 1974 SFRY and 1974 Socialist Republic of Serbia constitutions were proclaimed.²⁶⁵ At that time, the Presidency of Serbia formed a Constitutional commission to access and study the situation.²⁶⁶ Its findings were presented in 1977 and they confirmed that three different entities with different economic, legal and other interests were forming within the Republic of Serbia, which was causing disruption in the functioning of Serbia as Republic.²⁶⁷ For the next twelve years, there were political struggles for constitutional amendments of the Serbian constitution.²⁶⁸ By 1989, when the amendments to the Serbian constitution were adopted, the level of abuse of the powers of the autonomous provinces has started to endanger the constitutional system of SFRY²⁶⁹. There is no basis for claiming that any of these events, which occurred under the political and legal regime of the SFRY, were aimed at stripping Kosovo of its autonomy, nor are they evidence of the historical and political background to any plan as alleged by the Prosecutor.

119. The allegations made in paragraphs 85 and 88 of the indictment are baseless. In 1989, the Presidency of the SFRY imposed Special Measures in the territory of the autonomous province of Kosovo with the aim of providing for Constitutional order and the Rule of Law, not to withdraw the autonomy of Kosovo. These Special Measures were confirmed and fully supported by the Declaration of Federal Assembly (SFRY).²⁷⁰ The amendments to Constitution of Socialist Republic of Serbia, passed in the Kosovo Assembly, were in full accordance with prescribed constitutional procedure.²⁷¹ The Constitution of the Republic of Serbia, which applied throughout the whole territory of Republic, including autonomous provinces of Vojvodina and Kosovo, did not revoke the

²⁶⁴ P857.

²⁶⁵ Tr.13074

²⁶⁶ Ibid.

²⁶⁷ 1D125;Tr.13077-13078

²⁶⁸ P858;Tr.13074-13084.

²⁶⁹ Tr.13089-13093

²⁷⁰ 1D751, Tr 13518-13519

²⁷¹ Tr.13086,13287.

autonomy of either province.²⁷² The Albanian language maintained its full equality with the Serbian language throughout KiM, as one of the two official languages²⁷³. The freedom of expressing dissenting political views was maintained and Albanian separatist parties existed. In KiM, there were radio and TV stations in Albanian language, as well as a number of newspapers in the Albanian language openly supporting the KLA and separatism.²⁷⁴

120. The allegation that the local Court in Kosovo was dismantled is without substance. According to the Constitution of the Republic of Serbia, only the Supreme and Constitutional Courts of the autonomous provinces of Kosovo and Vojvodina ceased to exist.²⁷⁵ Each republic in the SFRY, including Serbia, had only one Supreme Court and one Constitutional Court. All other courts remained in KiM and the Judges of Albanian ethnicity maintained their jobs and conducted judicial functions throughout KiM.²⁷⁶ All changes to the constitutional position of the autonomous provinces were identical in both Vojvodina (majority Serbian population) and Kosovo. There was no hidden agenda or ill motive aimed at discriminating against the Albanian population in KiM.²⁷⁷

121. The Declaration of Kosovo as an independent and equal unit within the Yugoslav federation referred to in paragraph 86 of the indictment was an illegal and unconstitutional act and it was declared as such by the Constitutional Court of Yugoslavia (SFRY).²⁷⁸ It was that Declaration, the “the Constitution of the Republic of Kosovo” (1990), and the separatist attitudes of the Kosovar Albanian politicians that further disrupted the trust and divided ethnic groups in KiM. This resulted in the temporary dissolution of the Kosovo Assembly, Presidency and Executive Council for a period of two years.²⁷⁹ Kosovar Albanian politicians proclaimed the strategy of creating

²⁷² P855,art.108-110; Tr.13093

²⁷³ P855 art.8; P856 art.11,15,2D163 page 3 para 8;

²⁷⁴ 2D163,page 4,paras.12-13;Tr.6088-6089;6D1530 para 7;Tr.24045-24046.

²⁷⁵ P855 art.102,125-131.

²⁷⁶ Tr.23448,23452,23540.

²⁷⁷ Tr.13093.

²⁷⁸ P1870.

²⁷⁹ 1D370, Article2.

parallel organs in the province and not recognizing Federal or Serbian state authority.²⁸⁰ To that end, they publicly requested and pressured all Albanians employed in state institutions to resign and start working in self-proclaimed Kosova institutions.²⁸¹ Children and students stopped going to state run schools or universities and went to privately organized schools and universities for Albanians only. It is noteworthy that a number of OTP witnesses in this case who were sympathizers of the KLA were in fact school teachers, spiritual leaders or other intellectuals.²⁸² It comes as no surprise then, that a number of KLA fighters were young people and that their ranks grew so rapidly from couple of thousand to several thousand soldiers in two years.

122. This created an atmosphere of fear and uncertainty and a huge number of Serbs and Montenegrins fled Kosovo. The Federal Assembly (SFRY) adopted a Programme to stop this exodus²⁸³ but it did not achieve any significant results. In 1990, as the SFRY federation started to dismantle, federal institutions had no ability to exercise their authority and maintain the Special Measures introduced by the SFRY Presidency in 1989 in Kosovo. The Republic of Serbia lacked the legal means to restore statehood and make institutions work in Kosovo after 1990. To that end, the National Assembly introduced a number of laws aimed at achieving that goal as a temporary measure.²⁸⁴ These were the *Law on Procedure of Republican Organs Under Special Circumstances*, which ceased to exist in the legal system in March 1993.²⁸⁵ Laws for social protection of self-management rights and socially owned property existed in the province, as introduced by the Kosovo Assembly in 1977 and amended in 1986. They were only introduced in Republic of Serbia in 1989.²⁸⁶ Based on these laws, the Serbian government undertook temporary measures to improve the cadre in state institutions, state administration and socially owned companies in the province.²⁸⁷ These laws ceased to exist in 1991²⁸⁸ and the government decisions annulling previous decisions ensued.²⁸⁹ Therefore, contrary to

²⁸⁰ P2612,P2613,Tr.6074

²⁸¹ Tr.24092;6D1629 para 7;Tr.25202-25203;

²⁸² Shukri Gerxhaliu,Emin Kabashi,Qamil Shabani,Abdylhaqim Shaqiri,Sabit Kadriu.

²⁸³ P847,P862

²⁸⁴ P1854;1D458.

²⁸⁵ 1D370,Article 1(7),3; Tr.13461,13466.

²⁸⁶ 1D130;1D455;1D458; Tr.13106-13107.

²⁸⁷ 1D344,P863,P864,P865,P867,P882,P892,P896,P987,P899, P917,P918.

²⁸⁸ 1D136,1D137,1D138; Tr.13113-13114.

²⁸⁹ 1D342.

the allegations in the indictment that the Republic of Serbia sought to take overall control of the province, the truth is that only temporary measures were introduced in order to cope with the emergency situation created by Kosovar Albanian politicians to disrupt and destroy Constitutional order, the Rule of Law, and the Special Measures that the SFRY Presidency had adopted for the province.

123. In relation to education, the Republic of Serbia maintained the policy of returning children and students to schools and universities. In 1992, the *School Laws*²⁹⁰ were introduced which maintained elementary school as compulsory. This provision was again not accepted by the majority of Kosovar Albanians. The *Law on University* was also introduced in this year.²⁹¹ Despite insistence from the Serbian side, the Kosovar Albanians maintained their opposition to state schools and universities, and went to their parallel educational institutions. In 1996, Mr. Milošević made an agreement with Dr. Rugova in relation to education and a working group from the Serbian side was formed immediately after.²⁹² However, due to opposition within KiM from both sides, the written agreement was concluded only in March 1998 with the help of the St. Edigio community.²⁹³

124. Further, due to the boycott by the Albanian population of state institutions, elections and the state authority in general, the Republic of Serbia Assembly introduced a number of statutory decisions to form local organs in municipalities throughout Kosovo.²⁹⁴

125. The Republic of Serbia tried everything to restore a normal situation in KiM. It was certain leaders of the Kosovar Albanians who opted for illegal, parallel institutions and terrorism, instead of using democratic means, organs and elections which were fully open to them.²⁹⁵ It is clear that they opted for this because they wanted nothing less than independence from the FRY and Serbia.

²⁹⁰ 1D351,1D352,1D353.

²⁹¹ 1D355.

²⁹² P2613.

²⁹³ 2D1,Tr.14259.

²⁹⁴ 1D341, Tr.13516-13517;*Infra*, paras.132-134.

²⁹⁵ 1D370, Article 2.

126. The allegations made in paragraph 89 of the indictment are completely unsubstantiated. The SPS never had a majority in the Federal or Serbian Parliament.²⁹⁶ Mr. Milutinović was only a member of the main board of SPS, along with approximately 180 others. He was not a member of Executive Board nor did he hold any important function in the party during the period relevant to indictment.²⁹⁷

PART 4: MR. MILUTINOVIĆ'S ACTS – CONDUCT – STATE OF MIND

1998

127. On 18 March 1998, Mr. Milutinović made public his declaration on the political process in KiM.²⁹⁸ In his capacity as President of the Republic, he declared his intention to be the guarantor of direct political dialogue between representatives of the Government of the Republic of Serbia and representatives of the Albanian political parties in KiM. Mr. Milutinović called for the preservation of the territorial integrity and sovereignty of the Republic of Serbia, self-government for KiM, the principle of equality of all citizens, including equal rights for the members of national minorities in accordance with the highest international standards of the UN, the OSCE, and the Council of Europe, the immediate implementation of the 3+3 Education Agreement, and cooperation with international organizations such as the United Nations, the ICRC and the OSCE. He called for dialogue to begin without delay, and he concluded his declaration by stating:

I point out my conviction that the future of the citizens in Kosovo and Metohija, as well as those in Serbia and in all of our country does not lie in ethnic, religious or cultural closing-up and divisions but in peace, equality, integration and life together.

I trust that all citizens and the responsible political forces in Serbia and in our country as a whole, support the policy of equality of citizens, preservation of sovereignty and territorial integrity and of an open and equitable cooperation with other countries and with the international community.

128. On 31 March 1998, UN Security Council Resolution 1160 expressly noted the declaration by Mr. Milutinović, which had previously been submitted to the Security

²⁹⁶ Tr.14221-14222

²⁹⁷ P2875,

²⁹⁸ 1D79, Annex 17. 1D741,para.52;Tr.10779.

Council.²⁹⁹ Acting under Chapter VII of the Charter of the United Nations, the Security Council called upon the Kosovar Albanian leadership to condemn all terrorist action, and emphasized that all elements in the Kosovar Albanian community should pursue their goals by peaceful means only; it called upon the authorities in Belgrade and the leadership of the Kosovar Albanian community urgently to enter without preconditions into a meaningful dialogue on political status issues, and noted the readiness of the Contact Group to facilitate such a dialogue; it agreed that the principles for a solution of the Kosovo problem should be based on the territorial integrity of the FRY, in accordance with OSCE standards, including those set out in the Helsinki Final Act of the Conference on Security and Cooperation in Europe of 1975, and the Charter of the United Nations, and that such a solution must also take into account the rights of the Kosovar Albanians and all who live in Kosovo, and it expressed its support for an enhanced status for Kosovo which would include a substantially greater degree of autonomy and meaningful self-administration; it welcomed the signature on 23 March 1998 of an agreement on measures to implement the 1996 Education Agreement,³⁰⁰ and called upon all parties to ensure that its implementation proceeds smoothly and without delay according to the agreed timetable and expressed its readiness to consider measures if either party blocks implementation.³⁰¹

129. The undertaking made by Mr. Milutinović to act as “guarantor” of the political process to find a peaceful solution through dialogue to the problems in KiM directed his acts and conduct throughout 1998 and 1999.³⁰² In 1998, he lent political and material support to the work of the state delegation which was created by the Government of the Republic of Serbia to negotiate an agreement on self-governance with the political leaders in KiM. In an attempt to garner support for the process, Mr. Milutinović accompanied the state delegation several times to KiM. He met political leaders from KiM, the National Assembly, and diplomats (Ambassador Hill, Jim O’Brien, Monsignor Paglia) involved in shuttle diplomacy between the state delegation and Kosovar Albanian leaders. He issued personal invitations to Kosovar Albanian leaders and foreign

²⁹⁹ P455, refers to the declaration of 18 March 1998 by the President of the Republic of Serbia on the political process in Kosovo and Metohija (S/1998/250).

³⁰⁰ 1D80, Tr.14461-14462;1D18,pgs.90-91, Doc 8. P714,Tr.13125-13126.

³⁰¹ P455,paras.2,4-6.

³⁰² P604,pg.64.

diplomats to attend meetings and support the negotiation efforts. His office provided material and logistical support in the preparation of the numerous draft agreements on self-governance. He attended the signing of the Priština Declaration on 25 November 1998.

130. On 10 March 1998, the Government of the Republic of Serbia established a state delegation to meet and enter into discussion with political leaders in KiM to find a political solution to the issue of self-governance in KiM.³⁰³ The delegation was headed by deputy prime minister Ratko Marković and included Ratomir Vico, Andrea Milosavljević, and Ivan Sedlak. On 31 March 1998, the composition of the state delegation was expanded to include representatives of national minorities and ethnic communities living in KiM, representatives of all parliamentary parties of the National Assembly, and the special representative of the President of the FRY, deputy prime minister of the Federal Government, Dr. Vladan Kutlešić.³⁰⁴ The delegation included experts on constitutional and legal matters, individuals who had conducted negotiations in KiM on matters such as education, and others who were familiar with KiM because they worked and lived there and were active in local political life. The policy of the Government of the Republic of Serbia in creating this delegation was to take political measures and to engage in negotiations to ensure security of all citizens regardless of ethnicity, to establish a functioning education system, health services, state administration and to negotiate and implement an agreement on self-governance for KiM. The consensus of all the parties in the National Assembly was that a peaceful, political solution must be found to the problems in KiM.³⁰⁵

131. The Federal Government fully endorsed the platform of the leadership of the Republic of Serbia for resolving all problems in KiM through dialogue and political means.³⁰⁶

³⁰³ 1D78.

³⁰⁴ 1D82. Tr.13135-13136.

³⁰⁵ Tr.13124-12330,13471-13472; Tr.14261-14262;14332-14333,14355-14336; 1D738, paras.6 and 40; Tr.10774-10775.

³⁰⁶ 2D32. Tr.13985-13986.

132. As noted above in UN Security Resolution 1160, in parallel with the establishment of the state delegation, on 23 March 1998 the Measures for the Implementation of the 3+3 Education Agreement ("Education Agreement") were signed by representatives of the Government of the Republic of Serbia and Kosovar Albanian leaders, under the auspices of Monsignor Vincenzo Paglia of the St. Edigio community.³⁰⁷ Ambassador Petritsch testified that the signing of the Education Agreement was entirely consistent with UN Security Council Resolution 1160 and the international community had been pushing hard for meaningful dialogue between the two sides.³⁰⁸ Andreja Milosavljević, minister in the Government of the Republic of Serbia and coordinator of state bodies of the Republic of Serbia in KiM, testified in relation to the implementation of the Education Agreement.³⁰⁹ It was agreed that elementary and secondary schools in KiM would start functioning on 1 September 1998. Vital daily problems such as electricity, telephone, bus transportation, etc. were repaired and made operational during the spring and summer of 1998. On 1 September, more than ninety percent of schools and kindergartens operated. University classes were scheduled to begin in October 1998, after repairs to buildings, and other materials were provided through international funding.³¹⁰

133. Veljko Odalović, chief of the Kosovo District,³¹¹ was directly involved in the implementation of the Education Agreement.³¹² He worked along with eight people to ensure preparations for classes at the University of Priština³¹³ and to obtain materials necessary for the resumption of classes in elementary schools.³¹⁴ In late autumn 1998, the Albanological Institute and the technical faculty of the University of Priština was handed over to Albanian representatives and provided over 20,000 square meters of the best space at the university for the new faculty.³¹⁵ The Government of the Republic of Serbia invested over forty million dinars towards the implementation of the Education

³⁰⁷ 1D80, Tr.14461-14462;Tr.14653; 1D18, pgs.90-91, Doc 8. P714. Tr.13125.

³⁰⁸ Tr.10782-10783.

³⁰⁹ 2D356, Tr.14257-14258, 14263;14265-14267.

³¹⁰ Tr.14341-14344.

³¹¹ P978,Tr.14452-14454.

³¹² Tr.14421-14423.

³¹³ 2D2;2D3, Tr.14407-14409.

³¹⁴ 2D373. Tr.14409-14410.

³¹⁵ Tr.14466-14467. Tr.4599.

Agreement.³¹⁶ On 18 November 1998, Mr. Odalović met with a delegation of the European Commission and they discussed funding the programme of education and the question of supplies for the population and reconstruction of buildings. Ten million ECUs had been earmarked by the European Commission for the education programme and the implementation of the Education Agreement.³¹⁷ That autumn, teaching in the Albanian language took place in state run schools with no interruption. School supplies, desks, chairs, electricity, fire wood and hired help were all provided.³¹⁸

134. Despite tremendous efforts of the authorities in the Republic of Serbia and the daily assistance of international organisations, implementation of the Education Agreement was most difficult. In the period between March and July 1998, the KLA had taken control of approximately fifty percent of the territory of KiM, including the main access roads. Acts of terrorism against civilians and organizations and institutions of the Republic of Serbia and the FRY – including the MUP and the VJ – escalated. Serb villages and companies were under attack by the KLA. Serbs, non-Albanians and Albanians believed to be sympathizers were targeted for intimidation, kidnapping, torture and killing by the KLA.³¹⁹ Many Albanian children were prevented by ultranationalist forces and the KLA from attending state run schools, and they were instead educated in a parallel education system set up locally by separatist Albanian parties, with a separate curriculum.³²⁰ When education facilities were handed over to the Albanian authorities in 1998, there was resistance from both the Serb and Albanian communities in KiM. Some Serbian teachers and students protested, and once students held a demonstration in opposition to the handover of facilities to the Albanians, when the state delegation headed by Professor Marković was in Priština.³²¹ Albanian faculty and students resisted when the Technical Faculty at Priština University was handed over to the Albanian authorities.³²² Nonetheless, the individuals responsible for implementation of the Education Agreement on the ground were determined to resolve the problem in spite of

³¹⁶ 2D63,pg.4.

³¹⁷ 2D120. Tr.14421-14423.

³¹⁸ Tr.14410.

³¹⁹ P2645, pg.8,para.36; Tr.p.6017; Tr.14652-14653; P2889; Tr.14145-14146; Tr.14397-14398, 14400-14401; 2D364.

³²⁰ Tr.14341-14344.

³²¹ Tr.13492-13493; Tr.14464-14465.

³²² Tr.14466-14467;Tr.14653.

resistance.³²³ This work and the handover of facilities to the Albanians continued right up to the first few days of the war, when a reconstructed student hostel at Priština University was opened on 28 March 1999.³²⁴

135. Mr. Milutinović was intensively engaged in the process of finding a political solution to the issue of self-governance in KiM and the implementation of the Education Agreement.³²⁵ He had been the Minister of Education (1977-1982) and he was well versed in the education system in KiM, which functioned without problem when he was the minister.³²⁶ Jovan Kojić, an administrative officer in Mr. Milutinović's office,³²⁷ was told by the late Ratomir Vico, a signatory of the Education Agreement, and a person responsible for its implementation, that Mr. Milutinović wanted the agreement on education reached with the Albanians at all cost.³²⁸ Milomir Minić, the President of the Chamber of Citizens of the Federal Assembly, met with Mr. Milutinović, along with others, concerning the implementation of the Education Agreement. It was their firm intention to have this signed agreement implemented and to have all children in KiM have access to proper education.³²⁹ On 4 June 1998, when Mr. Milutinović received a letter from Monsignor Paglia expressing his serious concern over opposition to the concession of spaces to the Albanian students at Priština University, Mr. Milutinović acted immediately. On the same day, he instructed his staff to send a copy of Monsignor Paglia's letter to both Mr. Vico and Zoran Andjelković.³³⁰ At that time, Mr. Andjelković was in KiM, working constantly on the education agreement and its implementation.³³¹

136. Veljko Odalović testified that he knew that Monsignor Paglia was dissatisfied with the rate of progress. In relation to this letter sent by Monsignor Paglia, he stated that he and others working on implementation of the Education Agreement received a letter from Mr. Vico and others appointed by the Government requesting their assistance. Mr. Odalović stated that they were all aware of the problems but that they were overcome and

³²³ Tr.14464-14465.

³²⁴ Tr.14661.

³²⁵ 1D741,para.34.

³²⁶ P604,pg.183.

³²⁷ 1D741,paras.2-4.

³²⁸ 1D741,para.36.

³²⁹ Tr.14782-14783.

³³⁰ P2885.Tr.13766-13770.

³³¹ Tr.14653.

entire sections of educational premises and living accommodations were being provided for Kosovar Albanian students.³³²

137. Mr. Milutinović's commitment to finding a peaceful, political solution to the question of self-governance in KiM is further demonstrated by his active support of the work of the state delegation to negotiate self-governance in KiM. On 7 April 1998, he accompanied the delegation to Priština. As previously noted, a week earlier, UN Security Council Resolution 1160 had "called upon the authorities in Belgrade and the leadership of the Kosovar Albanian community urgently to enter without preconditions into a meaningful dialogue on political status issues".³³³ By this time, representatives of the leading Kosovar Albanian political parties had failed to respond to numerous written invitations to attend meetings in Priština with the state delegation. The Government of the Republic of Serbia made public calls and sent written invitations to representatives of political parties and public personalities.³³⁴ Between 12-20 March 1998, the state delegation travelled to Priština seven times to meet with political leaders in KiM. Representatives of smaller Albanian ethnic political parties and representatives of the Turkish, Gorani, Roma, Egyptian, and Muslim political parties responded to their written invitations and came to meet the state delegation.³³⁵ The leaders of the larger political parties, in particular the largest political party led by the late Dr. Ibrahim Rugova never appeared.³³⁶ Ratko Marković, head of the state delegation had signed and sent out personal invitations for each meeting.³³⁷ Invitations were sent out almost every day, every time another meeting was scheduled through Veljko Odalović, the chief of the

³³² Tr.14464-14465.

³³³ P455, para.4.

³³⁴ Tr.13146-13147. 1D82,pg.2: "The Government calls the representatives of the political parties of the Albanian minority to come to the talks seven days from today, on 7 April 1998 to Priština, to be held in the building of the Republican Government, at Vidovdanska 2, at 11.00 a.m.

Despite this public call, the Government of the Republic of Serbia sends regularly written invitations to the representatives of political parties of Albanian minority and public personalities: Ibrahim Rugova, President of the Democratic Alliance of Kosovo, Adem Demaçi, President of the Parliamentary Party of Kosovo, Ljuljeta Pulja-Beciri, President of the Social Democratic Party, Marko Krasnici, President of the Christian Democrat Party, Hajrija Gorani, President of the Independent Trade Unions, Hivzi Isljami, President of the Peasant Party, as well as to Mahmut Bakali, Azem Vlasi, Remzi Koljgeci, Kacusa Jasari and Gani Jasari, it is said in the statement."

³³⁵ Tr.13150-13152.

³³⁶ Tr.13130-13131,13133,13479-13480.

³³⁷ Tr.13478.

Kosovo District, who ensured that they were delivered and received.³³⁸ Mr. Odalović testified that his office would deliver these invitations to the leaders of the Albanian political parties. In particular, he ensured that invitations were delivered to the office of Dr. Rugova at the Writers' Association of Kosovo, where his assistant Adnan Merovci would sign in receipt of the invitation.³³⁹ Mr. Merovci testified that Kosovar Albanian leaders had refused at least fifteen invitations to meetings with the state delegation in KiM.³⁴⁰

138. Mr. Milutinović's presence in Priština on 7 April 1998 underlined the significance attached to the talks on the future of KiM³⁴¹ and it was meant to be a sign of good faith to the Kosovar Albanian leadership, as an impetus to pursue political dialogue.³⁴² As on previous occasions, leaders and representatives of the smaller Albanian political parties as well as the other ethnic minorities living in KiM attended this meeting.³⁴³ The representatives of the leading Kosovar Albanian political parties failed to appear. In his statement following the meeting in Priština on 7 April 1998, Mr. Milutinović criticized those leaders who refused to attend these meetings as irresponsible. He concluded his statement in the following terms, re-emphasizing his personal commitment to finding a viable and peaceful solution:

Therefore, once again, I emphasize that the future of all the citizens of Kosovo and Metohija, as well as, of Serbia and the whole country, is not in ethnic, religious, or cultural cessation and division, but it is in the equality and well linked mutual life.

Therefore, we, regardless of their today's absence, remain patient and open for a constructive dialog, because, this is the only way to reach the solution that would be of a long-term interest of all people living and working in Kosovo and Metohija.

Accordingly, I, myself, am personally ready to meet with, at any moment in Belgrade, whenever the representatives of the Albanian political parties decide so.³⁴⁴

139. Throughout 1998, leaders and influential personalities of the Kosovar Albanians met only once with the state delegation, despite repeated invitations on sixteen or

³³⁸ Tr.13144-13145,13150-13152,13483-13484. Tr.13767-13770.

³³⁹ Tr.14399-14400.

³⁴⁰ Tr.8499; P604,pg.46.

³⁴¹ 1D83,Annex 18.

³⁴² Tr.13142-13143.

³⁴³ Tr.13150-13152.

³⁴⁴ 1D83,Annex 18.

seventeen occasions between March and November 1998.³⁴⁵ This occurred on 22 May 1998 in Priština. The meeting was attended by the state delegation headed by Ratko Marković and several leaders from the Kosovar Albanian community, the late Fehmi Agani, Veton Surroi, Blerim Shala, Mahmut Bakalli, Mr. Kelmendi, and others.³⁴⁶ The meeting was short and talks lacked specificity or substance. The Kosovar Albanian representatives requested international participation in the negotiations. Indeed, Ambassador Hill accompanied the Kosovar Albanians to the meeting. He was present on the premises where the meeting took place, but he was not present at the meeting.³⁴⁷ The state delegation did not meet on this occasion with Ambassador Hill. Mr. Marković stated that he was prepared to meet Ambassador Hill in the future at any time in Belgrade.³⁴⁸

140. By the summer of 1998, the political process for finding a viable political solution on self-governance in KiM became internationalized with the Milošević-Yeltsin statement on 16 June 1998 and the commencement of shuttle diplomacy under the auspices of U.S. Ambassador Hill and Austrian Ambassador and EU special envoy for Kosovo, Wolfgang Petritsch. The Milošević-Yeltsin agreement provided, *inter alia*, to resolve the existing problems by political means, based on the equality of all citizens and national communities in Kosovo and, in line with this goal, to continue without delay the negotiations between representatives of the State and representatives of Kosovar Albanian political parties. Negotiations on all of the problems in Kosovo, including forms of autonomy in accordance with internationally recognized standards, would be pursued continuously according to the timetable established by the parties with a view to achieving significant and speedy progress.³⁴⁹ This agreement was viewed as a very positive step towards finding a peaceful solution to the problems in KiM by Ambassador Petritsch³⁵⁰ and Shaun Byrnes³⁵¹ and it marked a significant stage in the search for a

³⁴⁵ Tr.13153.

³⁴⁶ Tr.13489.

³⁴⁷ Tr.13159-13160,13490-13491.

³⁴⁸ Tr.13489-13490.

³⁴⁹ 1D18,pg.289,Doc 2.

³⁵⁰ Tr.10789-10791.

³⁵¹ Tr.12129-12131.

political solution in trying to formulate a compromise with the international community.³⁵²

141. Foreign Minister, Živadin Jovanović took part in the talks between Presidents Milošević and Yeltsin in Moscow on 15 June 1998. President Yeltsin acted on behalf of the international community which expected an increased international presence in KiM. As a result of this agreement, hundreds of foreign diplomatic representatives (KDOM) and journalists arrived in KiM. At the same time, the Federal Government increased its presence in KiM and the federal Ministry of Foreign Affairs set up three outposts in Priština, Kosovsko Pomoravlje, and Kosovaska Mitrovica.³⁵³

142. Ambassador Petritsch described the Milošević-Yeltsin statement as a historic declaration. It was important because it brought the international community directly into the conflict in KiM. It showed the constructive role that Russia played in the conflict and it marked a change in policy within the FRY towards the involvement of the international community in trying to resolve the problems in KiM. This step was welcomed by the international community and it was a very positive step on the part of the FRY Government. Ambassador Petritsch stated that sovereign states are often reluctant to internationalise their conflicts. But in this case, the FRY invited and allowed KDOM in to monitor throughout KiM, and allowed freedom of movement for accredited diplomats and humanitarian organisations. There was state assistance to re-build homes, an undertaking to negotiate further with the OSCE on monitoring, and to the extent that terrorist activities halted, to reduce the presence of security forces outside the area in which they are permanently deployed.³⁵⁴

143. The second half of 1998 was a period during which intense efforts were made to conclude an agreement for self-governance. Dr. Marković and Dr. Kutlešić met and worked regularly with U.S. Ambassador Hill and his legal expert Jim O'Brien to formulate draft proposals on an agreement. Ambassador Hill and Mr. O'Brien took the draft proposals to the representatives of the leading political parties of Albanians. As

³⁵² Tr.13814-13817;Tr.13990-13992;Tr.13154-13155.

³⁵³ Tr.13990-13996.

³⁵⁴ Tr.10789-10791.

mediators, the U.S. representatives would return the comments made by the Kosovar Albanians on these drafts to Mr. Marković and Mr. Kutlešić.³⁵⁵ Mr. Milutinović was actively involved in this process. He made the staff in his office available to the parties to prepare the numerous drafts agreements and he used his best efforts to bring the international representatives, local politicians in KiM, and politicians from the National Assembly together on a common platform in support of the written agreement on self-governance in KiM.

144. Jovan Kojić, an administrative officer in Mr. Milutinović's office, testified that he spent countless hours and days in 1998 typing different versions of all these agreements between July and November. He often sat with Professor Marković and Professor Kutlešić and typed these documents. He explained that, as time was short, Mr. Marković would often come to the office and check documents while he was typing them, because he did not have enough staff in the Serbian Government for this job. More than fifteen versions of the draft agreement were prepared and exchanged during this period.³⁵⁶ New versions sometimes came every second day and sometimes once a week. Professors Marković and Kutlešić, as well as other relevant state organs (SMIP/Federal Ministry of Foreign Affairs), would review the drafts and provide their responses or counter-proposals, which Mr. Kojić would type up.³⁵⁷

145. Despite these efforts by the Serbian side to conclude a written agreement on self-governance, the representatives of the leading Kosovar Albanians political parties continually refused all attempts by the state delegation to meet – notwithstanding the involvement of Ambassadors Hill and Petritsch.³⁵⁸ By 23 September 1998, the UN Security Council repeated its earlier call to the authorities in the FRY and Kosovar

³⁵⁵ Tr.13166-13167.

³⁵⁶ 1D728;1D731;1D625;1D610;1D611;1D612;1D626;1D613;1D614;1D615;1D616;1D700;1D730;1D617;1D71;1D618;1D72;1D694;1D695;1D703;1D696;1D627;1D628.

³⁵⁷ 1D741,para.35.

³⁵⁸ 5 June 1998, the state delegation traveled to Priština and the representatives of the leading Kosovar Albanian political parties did not appear (Tr.13160); On 17 August 1998, Mr. Marković sent a letter to Professor Fehmi Agani, inviting him to meet the following day in Priština (1D61). Professor Agani replied the same day and refused the invitation (1D64). Nevertheless, Professor Marković traveled to Priština on 18 August 1998 and waited several hours in the hope of holding a meeting. Professor Marković also invited Professor Agani to a meeting in a letter dated 2 October 1998, but Professor Agani refused to meet with him. (1D63)

Albanian leadership to engage in dialogue.³⁵⁹ Acting under Chapter VII of the Charter, after reaffirming the commitment of all Member States to the sovereignty and territorial integrity of the FRY, Security Council Resolution 1199 stated, *inter alia*, the Security Council:

3. Calls upon the authorities in the Federal Republic of Yugoslavia and the Kosovo Albanian leadership to enter immediately into a meaningful dialogue without preconditions and with international involvement, and to a clear timetable, leading to an end of the crisis and to a negotiated political solution to the issue of Kosovo, and welcomes the current efforts aimed at facilitating such a dialogue;³⁶⁰

Fault can only lay at the feet of the representatives of the leading Kosovar Albanian political parties for failing to heed the calls of the UN Security Council and enter into open dialogue without preconditions. The Security Council Resolutions expressly recognize that these talks must proceed on the basis of the territorial integrity and sovereignty of the FRY. These principles are enshrined in both the *Constitution of the FRY*³⁶¹ and the *Constitution of the Republic Serbia*³⁶² and the oath of the President of the Republic of Serbia.³⁶³ No ill-intention or bad faith can be ascribed to the authorities in the FRY or the Republic of Serbia. The state delegation was always ready to engage in meaningful dialogue without preconditions. Since June 1998, the FRY and the Republic of Serbia had invited international involvement and participation in the process leading to an end of the crisis and to a negotiated political solution to the issue of Kosovo. The leadership and representatives of the leading Kosovar Albanian parties were the only group which refused to participate in dialogue. Only once did they respond to an invitation to meet the state delegation. The state delegation both of its own accord and with the mediation of Ambassadors Hill and Petritsch made serious and sincere efforts to meet with all political representatives in KiM, including the leading Albanian representatives and to conclude an agreement for self-governance.

146. In the light of the heightened urgency of the situation and the call made by the UN Security Council Resolution 1199, Mr. Milutinović became even more active in the process of achieving a negotiated settlement for self-governance in KiM. On 29

³⁵⁹ P455.

³⁶⁰ P456.

³⁶¹ ID139, Articles 3(1)(2)(3); 133(1).

³⁶² P855, Articles 4(1)(2); 44(2).

³⁶³ Annex 2, P855, Article 86(5).

September 1998, one week after this Resolution, Mr. Milutinović received US special representative Ambassador Hill, along with Professors Marković and Kutlešić. It was mutually agreed that urgent renewal and intensification of the dialogue between the state delegation and representatives of the political parties of the Albanians from KiM was needed to solve all open questions by political means through agreement, as the highest priority and issue, in the interest of all the citizens of Serbia and FRY.³⁶⁴ In addition, in mid-October 1998, the Holbrooke-Milošević agreement was endorsed in an 11-point political framework by the Government of the Republic of Serbia. This included a timetable for reaching an agreement on the basic elements for a political solution for KiM.³⁶⁵ Mr. Milutinović attended a meeting of the Government of the Republic of Serbia and informed members of the negotiations between President Milošević and Ambassador Holbrooke which resulted in the definitive agreement with the international community on the resolution of the problems in KiM by peaceful and political means.³⁶⁶ This was submitted the following day to the UN Security Council, thus providing a framework and “clear timetable”, as called for by the Security Council in Resolution 1190.³⁶⁷ Ambassador Petritsch considered the Milošević-Holbrooke agreement as another very important next step of the involvement the international community in the resolution of the problems in KiM, through subsequent agreements with the OSCE/KVM, NATO, and KDOM.³⁶⁸

147. Over the next two months, Mr. Milutinović continued to work energetically and continuously in support of the efforts of the state delegation in an attempt to reach an agreement on self-governance for KiM. As Ratko Marković explained: Mr. Milutinović played an exceptionally active role in the conclusion of this agreement on self-governance in KiM. Of all the state officials, he was the one most seriously involved in this endeavour. He was involved, both in wording the actual agreement and later on, in trying to gain popular support for the agreement, in trying to advocate the solutions offered therein. Mr. Milutinović talked to the representatives of each and every ethnic minority in Kosovo who eventually signed the joint agreement and to the leaders of all

³⁶⁴ 1D86. Tr.10801. 1D753.

³⁶⁵ 1D601.

³⁶⁶ 1D601. Tr.13168-13170; 1D738,para.41.

³⁶⁷ 1D204. Tr.13169-13170.

³⁶⁸ Tr.10826-10827.

the political parties from the majority and opposition in the National Assembly to seek their support for it. When the government delegation was appointed it was said clearly that members of all parliamentary groups in the National Assembly were invited to come forward with their own candidates to this delegation so that the National Assembly might remain united on KiM and on how to deal with KiM. The result of these efforts made by Mr. Milutinović was that there was overall support for the proposal, except from the leading political Albanian parties which decided to ignore the whole project.³⁶⁹

148. The process which had begun after the creation of the state delegation in March, and carried through in the summer and into November in concert with U.S. representatives Ambassador Hill and Mr. O'Brien and the shuttle diplomacy of Ambassadors Hill and Petritsch, produced the *Joint Proposal of the Agreement on the Political Framework of Self-Governance in Kosovo and Metohija* (20 November 1998)³⁷⁰, which was endorsed in the *Priština Declaration* on 25 November 1998³⁷¹. Mr. Milutinović's participation in events shows his intention to use all means to achieve a peaceful resolution to the problems in KiM. On 14 November 1998, Mr. Milutinović sent written invitation for the continuation of dialogue on the political solution of the problem in KiM for 18 November 1998 in Priština. This meeting was announced during a reception with Ambassador Hill the previous day. In a public statement, Mr. Milutinović emphasized that only through dialog and political means can a solution in the interest of all citizens and national communities for KiM be achieved. Mr. Milutinović further announced that he would personally chair the meeting because of the significance and the essence of the problem.³⁷² Jovan Kojić sent out invitation letters to Dr. Ibrahim Rugova, leader of the LDK, Ljuan Koka, representative of the Roma community, Ibro Vait, representative of the Gorani community, Ćerim Abazi, of the Egyptian community, Zejnel Abedihkurejši, of the Turkish community, and Radenko Krulj, of the Serbian delegation.³⁷³ Invitations were also sent to Ambassadors of the Russian Federation, the People's Republic of China, Ambassador Hill, and Ambassador Petritsch.³⁷⁴ Ambassador

³⁶⁹ Tr.13178-13179.

³⁷⁰ 1D91,Annex 5.

³⁷¹ 1D620,Annex 6;1D671.

³⁷² 1D88,Annex 19.

³⁷³ 1D741,para.78, Tr.13737-13740, 1D621;1D62.

³⁷⁴ 1D88,Annex 19.

Petritsch was unable to attend the meeting in Priština but he considered it a very positive development and expressed his readiness to attend forthcoming meetings.³⁷⁵

149. In keeping with his commitment made in March 1998 – to be the “guarantor” of direct political dialogue – Mr. Milutinović chaired the meeting held in Priština on 18 November 1998. He made remarks at the beginning and at the end of the session. In his introductory statement,³⁷⁶ Mr. Milutinović repeated his deep conviction that the future of Kosovo is in peace, equality, common life, and development, and not in conflicts and divisions, on any grounds. He stressed that tolerance, understanding and trust are the best approach to eliminate all exclusiveness, extremism, and hatred. He emphasized that the future of KiM is not in conflicts and attempts at apartheid or self-imposed isolation of national communities. He stated that the goal was to open up the perspective of economic development of Kosovo, and to end the spiral of conflicts, xenophobia, chauvinist, religious and historical prejudice, in short - all that divides people and nations. He called for modern democratic solutions, self-governance within the Republic of Serbia and the FRY, through parliamentary, executive and judicial authorities and local police, constituted by direct, democratic, and multi-party elections.

150. In his concluding remarks,³⁷⁷ Mr. Milutinović expressed his regret that the representatives of leading political parties of Albanians from KiM failed yet again to respond to their calls to engage in political dialogue. He emphasized nonetheless that they remain patient and open for a constructive dialogue as the only way to reach the solution which will be in the long-term interest of all those living and working in KiM. He repeated his personal commitment to stand ready, once the representatives of these political parties so decide, to meet with them at any time and discuss the vital issues discussed at this meeting. He concluded his remarks by stating that he felt personally obliged - in view of the positions and opinions presented at the meeting - sometimes conflicting, pertaining to the important issues under discussion - and he would personally engage, with the help of all of them, to have their proposals and ideas once again considered, further elaborated and, in line with basic initial principles, respected to the

³⁷⁵ 1D68, Tr.10811.

³⁷⁶ 1D622,Annex 3. 1D741,paras.79-80.

³⁷⁷ 1D623,Annex 4. 1D741,paras.79-80.

fullest. He again undertook to talk to a representative of each national community and the representatives of political parties of Kosmet Albanians not present at the meeting - in order to be able advance his position accommodating the comments and suggestions with a view to working out a platform for a political solution to the problems in KiM.

151. In Belgrade, the following day, as Mr. Milutinović stated in his closing remarks in Priština, he met with political leaders who had attended these talks: Muharem Ibraj of the People's Party of Kosovo, Faik Jašari of the Kosovo Democratic Initiative, Guljehari Reufi Šabović of the National Community of Turks, Ibro Vait of the National Community of Gorans, Refik Senadović of the National Community of Muslims, Koka Ljuan of the National Community of Roma, Čerim Abazi of the National Community of Egyptians, and Ljubiša Stevanović of the political parliamentary parties of Kosovo and Metohija. It was agreed that talks should continue in order to achieve concrete solutions in the interest of all citizens and national communities that live in KiM.³⁷⁸ The same day, Mr. Milutinović sent letters to three leaders of the Kosovar Albanians – Rexhep Čosja, Hidajet Hiseni, and Adam Demaći – inviting them to Belgrade to meet with him the next day. The letters make reference to Mr. Milutinović's attendance at the meeting in Priština on 18 November 1998 and they emphasize that he values their experience and knowledge of all the circumstances in KiM. Mr. Milutinović invites them to meet with him to talk about what they see as a path to a peaceful solution to the problem. He leaves open the option of having a public or private meeting, and he asks Mr. Zoran Andjelković, President of the TEC, to deliver the letters and to arrange their travel to Belgrade by air.³⁷⁹

152. The next day, 20 November 1998, Mr. Milutinović held separate meetings in Belgrade with leading members of political parties from both the republic and federal levels: Gorica Gajević, general secretary of the Socialist Party of Serbia, Milomir Minić member of the SPS executive committee; Dr Vojislav Šešelj, president and Tomislav Nikolić, vice-president of the Serbian Radical Party; Ljubiša Ristić, president of the Yugoslav United Left; Vuk Drašković, president of the Serbian Renewal Movement,

³⁷⁸ 1D89, Annex 20.

³⁷⁹ 1D66.

Dušan Mihajlović, president and Radomir Lazarević, vice-president of the New Democrats as well as Jozef Kasa, president of the Alliance of Vojvodina Hungarians. Discussions centred on finding a universal platform for a political solution to the problems in KiM in keeping with the agreement reached by Slobodan Milošević and Ambassador Holbrooke and the 11-point political framework adopted by the Government of the Republic of Serbia and the Federal Government.³⁸⁰ It was concluded that peace and common life in KiM are only possible through real equality of all ethnic communities and democratic self-government within the framework of the constitutional system of Serbia and the FRY at the same time respecting the basic principles of equal rights and duties of all citizens, equality of all ethnic communities and additional rights to preserve the identities of ethnic communities on the proviso that all ethnic communities will not use their additional rights to the detriment of other ethnic communities.³⁸¹

153. The three leaders of the Kosovar Albanians who had been invited on 19 November to attend this meeting did not attend. On 24 November 1998, Mr. Demaći, the chief political representative of the KLA responded to the letter Mr. Milutinović had sent to him five days earlier, inviting him to meet in Belgrade on 20 November.³⁸² This letter praises Mr. Milutinović personally for his invitation, as an important step in finding a proper and genuine solution to the Kosovo issue. He states however that it is impossible for the KLA to have contact with the Serb side because it is unclear to him whether he is being invited as a private citizen or the chief political representative of the KLA and because the Albanians wish to have talks at the federal level rather than at the level of the Republic of Serbia. Mr. Demaći expressed the hope that more good will could be demonstrated by both sides and that talks can continue in line with paragraph 2 of UN Security Council Resolutions 1160 (31 March 1998) and 1199 (23 September 1998).

154. Paragraph 2 of Resolution 1160 calls also upon the Kosovar Albanian leadership to condemn all terrorist action, and emphasizes that all elements in the Kosovar Albanian community should pursue their goals by peaceful means only³⁸³ and paragraph 2 of

³⁸⁰ 1D601;1D204. Tr.13169-13170.

³⁸¹ 1D602,Annex 21.

³⁸² 1D92.

³⁸³ P455.

Resolution 1199 demands that the authorities of the FRY and the Kosovo Albanian leadership take immediate steps to improve the humanitarian situation and to avert the impending humanitarian catastrophe³⁸⁴. The leadership of the FRY had always called upon terrorism to end and to be condemned, and they had taken steps to improve the humanitarian situation caused by the provocations and armed insurrection of the KLA.

155. On 20 November 1998, Mr. Milutinović received a reply to his invitation from Rexhep Ćosja and Hidajet Hiseni. This letter is noteworthy and reads as follows:

DEAR MR MILUTINOVIĆ,

WE WOULD LIKE TO THANK YOU FOR YOUR INVITATION TO THE DISCUSSION TO FIND A SOLUTION TO THE PROBLEM' IN KOSOVO. WE CONTINUE TO BE ENGAGED IN FINDING A POLITICAL SOLUTION TO THE QUESTION OF KOSOVO AND WE APPRECIATE ANY HONEST ENGAGEMENT FOR A FAIR PEACE IN KOSOVO. HOWEVER, WE DO NOT BELIEVE THAT IMPROVISED AND HASTY PRIVATE DISCUSSIONS CAN CONTRIBUTE TO SUCH A GOAL. NATURALLY, WE CANNOT ATTEND ANY SUCH DISCUSSIONS. A LASTING AND FAIR SOLUTION TO THE QUESTION OF KOSOVO IMPLIES THE NEED FOR A WELL-PREPARED PROCESS OF DISCUSSIONS AMONG EQUALS, UNCONDITIONED, WITHOUT ANY IMPOSED FRAMEWORK, WITHOUT PREJUDICE AND WITH THE DIRECT ENGAGEMENT OF AUTHORISED INTERNATIONAL FACTORS.

YOURS SINCERELY,
Member of the Academy Rexhep ĆOSJA
Hidajet HISENI³⁸⁵

The letters sent by Mr. Demaći and Mr. Ćosja and Mr. Hiseni provide examples of the “lame and transparent excuses” that can only result in “derailing the process of searching for political solutions” which Mr. Milutinović criticized in his concluding remarks at the meeting held in Priština on 18 November 1998.³⁸⁶ Mr. Milutinović stated to investigators from the office of the Prosecutor that the reply he received from Mr. Demaći was not sincere. He explained that it was clear that Mr. Demaći had been invited in his capacity as the KLA political representative, just as other representatives of the Kosovar Albanians – Mr. Rugova, Mr. Agani, Mr. Cosja, and Mr. Hiseni – had been invited to talks in their official capacities.³⁸⁷

156. Furthermore, it is completely inaccurate and disingenuous for Mr. Ćosja and Mr. Hiseni to claim that the Kosovar Albanian leadership is being asked to engage in

³⁸⁴ P456.

³⁸⁵ 1D67.

³⁸⁶ 1D623, Annex 4.

³⁸⁷ P604, pgs. 57-60.

“improvised and hasty private discussions”, to suggest that there was no “well-prepared process for discussions”, or to state that discussions were not among equals, unconditioned, without any imposed framework, without prejudice and without direct engagement of authorised international factors. Nothing could be further from the truth. On two occasions – 31 March 1998³⁸⁸ and 23 September 1998³⁸⁹ – the UN Security Council had called on the Belgrade authorities and the leadership of the Kosovar Albanian community to urgently enter without preconditions into meaningful dialogue on political status issues with international involvement. International factors were directly engaged. From July to December 1998, Ambassadors Hill and Petritsch had been shuttling draft versions of a political agreement on self-governance between the state delegation and the Kosovar Albanian leadership. It was a well-prepared process among equals which included all ethnic groups and communities, including the Albanian majority, in KiM. The UN Security Council resolutions had called for dialogue, based on a clear timetable, to negotiate on the basis of the territorial integrity and sovereignty of the FRY and minority rights in KiM. The authorities in Belgrade and the minority leaders in KiM complied. Only the leadership of the Kosovar Albanian community refused to negotiate and obstructed the process of seeking political agreement and the solution of self-governance in KiM.

157. Ambassador Petritsch testified that it was well known that Mr. Milutinović made repeated efforts to encourage the Kosovar Albanian representatives to meet with the state delegation and that he was critical of the Albanians for not appearing at meetings when invited. As an international representative involved in the shuttle diplomacy and exchange of draft agreements on self-governance, he knew that twelve to fifteen different attempts were made to invite the representatives of the leading Kosovar Albanian parties to meet with the state delegation and to encourage dialogue. He stated that there can be no legitimate reason for one side in a conflict to refuse invitations fifteen times. In every conflict in the world, while the conflict is taking place, there are meetings and attempts in finding peaceful, political resolutions. He knew that Mr. Milutinović constantly

³⁸⁸ P455.

³⁸⁹ P456.

emphasized his personal commitment and the importance of finding a resolution to the problem in KiM as a key objective of the Government of the Republic of Serbia.³⁹⁰

158. The result of these talks and consultations was the *Joint Proposal of the Agreement on the Political Framework of Self-Governance in Kosovo and Metohija*, (20 November 1998).³⁹¹ The preamble to this Agreement recites the events leading to its conclusion and the role played by Mr. Milutinović. On the same day, Mr. Milutinović had called for a continuation of dialogue on the political solution in KiM at a meeting to be held in Priština on 25 November 1998. He sent invitations and the text of the Joint Proposed Agreement to representatives of those political parties who took part in talks on 18 November, together with a repeated call to those who had not previously attended to take part in the work of the next discussion without fail.³⁹² Letters of invitation were sent to Dr. Ibrahim Rugova, leader of the LDK, Muharem Ibraj of the National Party of Kosovo, Faik Jašari of the Kosovo Democratic Initiative, Zejnel Kureiši of the National Community of Turks, Ibro Vait of the National Community of Goranci, Refik Senadović of the National Community of Muslims, Koka Ljuan of the National Community of Romanies, Ćerim Abazi of the National Community of the Egyptians, and Professor Radenko Krulj, representing political parliamentary parties from KiM. The letters were delivered to the addressees by Zoran Andjelković.³⁹³

159. Furthermore, on 23 November 1998, Mr. Milutinović received Ambassador Hill, as well as Mr. Marković and Mr. Kutlešić. They discussed the current process for a political solution to the problem in KiM and especially the talks and consultations held in Priština on 18 November and in Belgrade on 19-20 November and the *Joint Proposed Agreement on the Political Framework of Self-Government in Kosovo and Metohija*, which completely affirmed full equality among all ethnic communities. It was agreed that all legal solutions for self-governance in KiM should be in accordance with the legal systems of the Republic of Serbia, the FRY, and international standards. Finally, it was

³⁹⁰ Tr.10785-10788.

³⁹¹ 1D91,Annex 5.

³⁹² 1D603,Annex 22.

³⁹³ 1D624. 1D741,para.82;1D577, list of attendees, 1D741,para.84.

judged that a broad self-government, based on the equality of ethnic communities was the main pillar for a political solution and a condition for overcoming tension and conflict.³⁹⁴

160. On 25 November 1998, Mr. Milutinović once again travelled to Priština with the state delegation for the signing of the Priština Declaration.³⁹⁵ All political representatives who were invited attended the meeting, except Dr. Rugova. The *Priština Declaration* was signed by Ratko Marković, on behalf of the Republic of Serbia, Vladan Kutlešić on behalf of the FRY, and representatives for the national and political parties for KiM, who took part in the creation of the of the *Joint Proposal of the Agreement on the Political Framework of Self-Governance in Kosovo and Metohija*, (20 November 1998).³⁹⁶ This agreement established the essential elements of self-government in KiM, as a multi-ethnic community, where no single ethnic community, regardless of its size, may be allowed to demean or slight any other ethnic minorities. This agreement provided for a special method of decision-making in the Assembly of KiM as its major political body. There were mechanisms for representation from KiM in the organs of the FRY and the Republic of Serbia and the organization and mechanisms for local governance, including local police, was envisaged by way of further amendment to the agreement.³⁹⁷ Ambassador Petritsch considered that the proposal contained in the Joint Proposal for Agreement demonstrated the commitment of the Serbian side to fulfil the timetable it had set for itself to complete an agreement containing core elements for a political settlement in KiM in the 11-point framework endorsed by the Government on 13 October 1998.³⁹⁸

161. They state delegation continued to use every effort to conclude an agreement up to and including 2 December 1998. This version of the agreement was acceptable to the Americans and the Serbs.³⁹⁹ On the other hand, on 8 December 1998, Adem Demači held a press conference where he rejected the latest proposed draft as “utterly unacceptable”. His press conference reveals that the representatives of the leading Kosovar Albanians political parties, in particular Fehmi Agani, the main negotiator and

³⁹⁴ 1D604,Annex 23.

³⁹⁵ 1D620,Annex 6;1D671.

³⁹⁶ Tr.13180-13181,13210-13211,13522-13523. 1D91,Annex 5.

³⁹⁷ Tr.13176-13177.

³⁹⁸ Tr.10827-10828.

³⁹⁹ 1D18,pgs.373-379,Doc 11; P604,pgs.44,81.

trusted aide of Ibrahim Rugova, had not made any proposals or offered any plan for resolving the problems in KiM. He clearly states that their historic mission was to unite the Albanians across KiM, Albania and Macedonia in a single state.⁴⁰⁰

162. Mr. Milutinović's commitment to finding a political solution for self-governance in KiM and his efforts to bring all sides together as "guarantor" to this process must be viewed and understood in relation to his knowledge of the situation and the declared policy of the authorities in the FRY and the Republic of Serbia. The threat to the security of the population, state institutions and the territorial integrity and sovereignty of the FRY came under increasing attack throughout 1998 and 1999 from the Kosovo Liberation Army ("KLA"). In February 1998, U.S. Special Envoy, Richard Gelbard declared the KLA a terrorist organisation.⁴⁰¹ KLA operations against civilians, state institutions escalated in the following months to a point where the KLA took control of approximately fifty percent of the territory of KiM, including the main access roads. Serb villages and companies were under attack. Serbs, non-Albanians and Albanians believed to be sympathizers were targeted for intimidation, kidnapping, torture and killing by the KLA.⁴⁰² The above-noted position stated by Mr. Demaći was very well known. The prime minister of the FRY, Momir Bulatović and Ambassador Petritsch testified that among some Albanian leaders, particularly from the KLA, their historic mission was to unite an independent KIM in a "Greater Albania" across Albania, KiM, and Macedonia. The KLA relied in part on funding from the Diaspora and the Albanian mafia and obtained weapons, supplies, and support from the Republic of Albania.⁴⁰³

163. The prime minister of the Federal Government, Momir Bulatović testified that throughout 1998 official state organs reported that there was an escalation in large-scale terrorist activities. There was strong public outcry for communications and free movement to be restored in KiM. There were murders, abductions and other crimes occurring. It required an appropriate response by security forces.⁴⁰⁴ The Federal

⁴⁰⁰ Tr.10829-10832, 1D18,pg.379,Doc 14.

⁴⁰¹ Tr.13805.

⁴⁰² P2645, pg.8,para.36; Tr.p.6017; Tr.14652-14653; P2889; Tr.14145-14146; Tr.14397-14398, 14400-14401; 2D364.

⁴⁰³ Tr.13805-13806,13879-13881; Tr.10829-10831.

⁴⁰⁴ Tr.13813-13814.

Government considered and assessed the situation in KiM both before the parliament and the public. The Federal Government knew that the situation was very, very difficult and that an armed rebellion could not be stopped by force alone. They repeatedly insisted on political dialogue and a political solution. An outstretched hand for political dialogue was being offered first and foremost by the Republic of Serbia and then also by the Federal Government.⁴⁰⁵ Federal foreign minister Živadin Jovanović stated that the terrorist activities of the KLA were growing in intensity by the month. There were illegal channels used to bring weapons and equipment into KiM. The terrorists were attacking employees of the state, such as the police, the army, members of state services and public services and utilities, such as the post, the schools. There were killings and abductions of civilians of all ethnic groups and on more or less a daily basis.⁴⁰⁶ The state had no other choice but to defend law and order and the constitution. It had to make sure that all citizens were safe in KiM, and it had to apply force in combating terrorism. At the same time, the state used diplomacy to explain to international players how serious the problem of terrorism had become and to seek understanding for its policy of dealing with the KiM problem by political means.⁴⁰⁷

164. Veljko Odalović testified that in the spring and summer of 1998, almost a third of the territory of KiM was under the control of the KLA. More than 80 villages inhabited by Serbs, Montenegrins, and other non-Albanians were ethnically cleansed. There were more than 4,500 displaced persons. There were very serious incidents of mass kidnappings, in particular the miners at the mines in Bilacevac, Retimlje, and Opterusa where more than 60 civilians were taken from their homes.⁴⁰⁸ The insurgents took control of the coal mines at Balacevac, which was of major significance as a source of energy. Most of the vital communications in the area of Metohija were controlled by the KLA. This caused a great deal of concern, fear, and panic among the victims of the KLA. Appeals were to the state bodies to protect the people, the buildings, all the

⁴⁰⁵ Tr.13813.

⁴⁰⁶ Tr.13984.

⁴⁰⁷ Tr.14002-14003.

⁴⁰⁸ 2D364, Tr.14402-14403.

facilities, the companies, because the operations conducted by these terrorist gangs were putting everything at risk.⁴⁰⁹

165. While Mr. Milutinović was fully engaged in the attempts to engage the political leaders in KiM in the process to achieve an agreement on self-governance, he attended meetings where the security situation, the suppression of terrorism, and state policy on achieving an agreement on self-governance were discussed. After the Jashari incidents, which took place in late February and early March 1998, Mr. Milutinović met with the Minister of the Interior, Vlado Stojiljković. In the days prior to this meeting, Mr. Milutinović had called the minister's office and sent him a letter requesting information on what had happened at the Jashari compound. The Minister did not respond to these attempts by Mr. Milutinović to learn what had transpired.⁴¹⁰ On 11 March, the Ministry of Information of the Republic of Serbia issued a Statement of the Government of Serbia regarding the Jashari incident. When they finally met, Mr. Milutinović was informed by the Minister that on 5 March the MUP fought Adem Jashari and his men for twenty-seven hours at his compound, after they had attacked a police patrol, killing four police officers and wounding two others, five days earlier.⁴¹¹

166. At the fifth session of the VSO on 9 June 1998, General Perišić provided a detailed analysis of dramatically heightened threat to the FRY from separatist terrorist activities of the KLA in KiM, the training of terrorists in the Republic of Albania who were being prepared to be sent to the FRY, and the threat of NATO intervention against the FRY.⁴¹² The unanimous conclusions of all the members of the VSO were: 1) to accept the report by General Perišić, 2) should terrorist activities of the Albanian separatist movement escalate, the Army of Yugoslavia will intervene in adequate measure, and 3) the VJ will be prepared to oppose any form of foreign intervention that might endanger the sovereignty and territorial integrity of the FRY.⁴¹³ The next day, at

⁴⁰⁹ Tr.14400-14401,14404;P2828.

⁴¹⁰ 1D741,para.18; Tr.13725-13726.

⁴¹¹ P604,pg.54;1D553 (IC137). Tr.13734-13735.

⁴¹² 4D106, pgs.1-2;4-10.

⁴¹³ 4D106, pg.2,10.

the 16th Session of the SPS Main Board, several hundred members of the SPS,⁴¹⁴ including Mr. Milutinović, were informed of the main political platform and policy of the SPS for dealing with the problems in KiM by Milomir Minić. The conclusions at this meeting were the following:

Special attention was paid to current problems in Kosovo and Metohija. The SPS emphasised its principled position that all open issues in Kosovo and Metohija can be solved by political means, starting from the basic principle of national equality of all citizens. The SPS remains committed to direct and unconditional dialogue as the best way to achieve peaceful, humane, just and permanent solutions that would recognise the interests of all citizens and ethnic communities living in that province.

Responsible state organs will resolutely fight terrorism in order to ensure the peaceful co-existence, safety and security of all citizens. The fight against terrorism is in the interest of all those who live in Serbia, regardless of their ethnic background.

The Main Board of the SPS supported the measures that state organs took in order to normalise the situation in this part of the republic and emphasised the need to organise efforts to ease tensions and take measures to ensure the rebuilding of confidence among members of various ethnic communities in Kosovo and Metohija.⁴¹⁵

167. With the forces of the KLA increasing and becoming stronger in numerical strength, weapons, organisation, aggressiveness of their tactics, a plan for fighting terrorism was prepared, submitted and approved by the President of the FRY.⁴¹⁶ The order to engage the MUP and VJ in fighting terrorism in KiM was given by the President of the FRY on 21 July 1998.⁴¹⁷ The day before, the President of the FRY convened a meeting to announce that he had adopted the plan to suppress terrorism in KiM.⁴¹⁸ Those in attendance included the leadership of the VJ: General Perišić, General Dimitrijević, Dušan Samardžić, General Pavković, the leadership of the MUP: Minister of the Interior, Stojilković, General Vlastimir Djordjević, General Sreten Lukić, four politicians active in

⁴¹⁴ P1012: "In addition to the members of the Main Board, the President of the Statutory Commission of the SPS and the presidents of district, city and municipal SPS boards were invited to the session and took part in it."

⁴¹⁵ P1012.

⁴¹⁶ 3D1084, paras.13-14.

⁴¹⁷ 4D100: "At the meeting with the President of the FRY held in his office on 21 July 1998, an order was given to implement the Plan for Combating Terrorism in Kosovo and Metohija; 4D101, refers to the "briefing with the president of the Federal Republic of Yugoslavia on 21 July 1998 when the order was given to commence implementation of the plan". See, also P1439, para.2: "The plan to smash the DTS/sabotage forces/ on the territory of KiM, authorized by the President of the FRY, stipulated that when the DTS on the territory of KiM have been smashed by MUP and VJ forces, rapid-intervention forces shall be formed to be at full readiness, with the engagement of MI-8 helicopters, to intervene at threatened sectors and features, as ordered by the President..

⁴¹⁸ Tr.14637.

KiM: Mr. Šainović, Mr. Andjelković, Mr. Matković, Mr. Minić. Mr. Milutinović also attended the meeting.⁴¹⁹ President Milošević informed those present that the plan to suppress terrorism had been elaborated by the army and that work on economic matters and on the political situation must continue.⁴²⁰ Mr. Milutinović did not take part in the discussion.⁴²¹

168. In the spring and summer, the Government of the Republic of Serbia set up institutions to coordinate with international humanitarian organization for the distribution of humanitarian aid to the all the citizens in KiM.⁴²² From 3 June until 28 September 1998, Andreja Milosavljević was coordinator of state bodies of the Republic of Serbia in KiM, pursuant to his appointment by the prime minister of the Republic of Serbia.⁴²³ The objective was for all of the state bodies to work smoothly with no interruptions or irregularities and to have a normal life in KiM. He reported to the prime minister.⁴²⁴ There were five districts, five heads of districts and twenty-nine municipalities.⁴²⁵ He worked with ministries from the republic level: the minister of finance, the minister of agriculture, the minister of justice, the minister of health and from the federal level the minister of internal trade.⁴²⁶ He set up a headquarters at the provincial authority's premises.⁴²⁷ Supply centres for the distribution of aid were set up throughout the districts and municipalities.⁴²⁸ The humanitarian organizations (ICRC, UNHCR, and others), the government of the Republic of Serbia and other companies brought in aid.⁴²⁹ The distribution of aid was harmonised between the government organs and the international humanitarian organizations. There were certain areas where government officials could not go because of the danger caused by terrorists (for example, Djeravica towards the border with Albania, in the mountains above Junik). Aid was delivered to these areas by international organizations. Their freedom of movement and safety could not be

⁴¹⁹ Tr.14634-14635.

⁴²⁰ Tr.14637.

⁴²¹ Tr.14638.

⁴²² 1D84.

⁴²³ 2D356.

⁴²⁴ Tr.14263-14266.

⁴²⁵ Tr.14268-14269.

⁴²⁶ Tr.14269-14270.

⁴²⁷ Tr.14270-14272, 14285-14286.

⁴²⁸ Tr.14285.

⁴²⁹ Tr.14277.

guaranteed because at that time that area was occupied by the terrorists. The distribution of this aid resulted in the restoration of confidence and for bringing people closer together, because in those centres everybody received aid, Serbs, Albanians, Turks, Roma.⁴³⁰

169. Essential foodstuffs were distributed to the population: for example, flour, oil, sugar, meat, potatoes, beans, for the entire population, free of charge. These were human rights supplies as they called them, and special funds were set apart for that, and special supplies within the headquarters.⁴³¹ The humanitarian situation was solved successfully in spite of certain difficulties, owing to the concern of the government of Serbia, the municipal organs, and other organs as well as companies, which provided necessities, staple foods, building materials. Humanitarian centres were established in Orahovac, Decani, Klina, Djakovica, and in villages, such as Junik and Istinic. From these locations goods, foodstuffs, building materials, glass for windows was received there by all citizens. Best efforts were used to have people from the local self-administration there, both Serbs and Albanians wherever possible. Humanitarian aid was being distributed to all citizens, including Roma, Albanians, Serbs, and others.⁴³²

170. In the autumn, anti-terrorist actions in KiM were completed. On 28 September 1998, the National Assembly of the Republic of Serbia held a session at which it discussed the current security and socio-economic situation in KiM. The Conclusions of this session stated that the main cause of problems in KiM is Albanian separatism which had the aim of the secession of KiM from Serbia and the use of terrorism to achieve that aim through violence and crimes. These Conclusions emphasize that the eradication of terrorism and the resolution of the problems in KiM is a matter of priority of national and state interest; that there is a clear distinction between the terrorists and terrorism and the vast majority of members of the Albanian national community who want to live, work and exercise all their legitimate rights in peace, together with other citizens of Serbia and Yugoslavia; that the measures and plans for the speedy resolution of all humanitarian problems in KiM is approved; that further stabilisation of the situation in education is

⁴³⁰ Tr.14282-14284.

⁴³¹ Tr.14286-14289.

⁴³² Tr.14301-14302. 2D372. 2D382.

occurring in line with the Education Agreement; and that substantive and unconditional dialogue through political means is the only way to resolve the problems in KiM in a peaceful and democratic manner.⁴³³

171. At this session of the National Assembly, the Temporary Executive Council was established. Its head, Zoran Andjelković testified that it was set up to show Serbia's good will towards reaching a political agreement, elections, and the establishment of local authorities in KiM. This body worked primarily in the area of social and humanitarian issues. It had a total of sixteen members, five of whom were Serbs and the other eleven represented the other ethnic communities living in KiM.⁴³⁴

172. The Federal Assembly and the Federal Government adopted similar policies and platforms to deal with the situation in KiM. The Federal Government provided humanitarian assistance to people who fled their homes because of the fighting with the KLA during the summer of 1998. This assistance was provided free of charge and went to all citizens in KiM who required it, regardless of ethnicity. Immediate intervention was needed and efforts to provide this assistance was coordinate with the ICRC and through the distribution of reserve goods directly to the population.⁴³⁵

173. On 28 September 1998, the Federal Government endorsed the decision and conclusions of the National Assembly of Serbia. The Federal Government stated that the absolute unanimity of the National Assembly deputies, as well as the unified position of the most influential parliamentary parties of the Republic of Serbia, offer the best guarantee that the problems in KiM can only be resolved by dialogue. This also required full acceptance of the principle of equality for all citizens and ethnic minorities residing in KiM, as well as respect for the constitutional order and territorial integrity of Serbia and the FRY. The Federal Government underlined its expectation that the political representatives of the Albanian ethnic minority would accept the offer of dialogue made long ago, and that solutions would be found by political means, paving the way for a lasting peace in KiM, and allowing the citizens to go back to their everyday lives and to

⁴³³ 1D202, 2D63, P907. Tr.13164-13165,13500-13501,13515-13517; Tr.14656-14657; 2D376.

⁴³⁴ Tr.14656-14657; P907, P911, 1D454, 2D153, 2D376, 2D377.

⁴³⁵ Tr.13833; 2D48, 2D57.

achieve economic prosperity.⁴³⁶ On 5 October 1998, the Federal Assembly adopted conclusions on a political programme for the normalization of the situation in KiM. These included: dialogue and peaceful and democratic settlement to the problems in KiM, equality among ethnic groups, violent secession through terrorism as the root cause to the problems; the necessity to defeat terrorism; and the invitation of an OSCE verification mission in KiM, as a manifestation of the country's openness and readiness for international cooperation.⁴³⁷

174. This same position was fully supported and advocated by Mr. Milutinović. This is made clear by his intervention at the sixth session of the VSO on 4 October 1998. Here he responds to the assessment made by General Perišić concerning KLA activity, a possible NATO intervention, finding a political and peaceful resolution to the situation in KiM, and UN Security Council Resolution 1199:⁴³⁸

Milan MILUTINOVIĆ:

I think that General PERIŠIĆ made his point. The first option is the diplomatic one, and one is to do everything to avoid situations like this. I think that the reason shall prevail with everyone conceiving the matters in their respective fashion. This, what General PERIŠIĆ said, is holding when the situation with NATO is concerned, etc. I think that the reason shall slowly, slowly prevail with them too, and moreover, if one is to look into entire UN Resolution carefully, point by point, we have fulfilled practically everything. I mean, if there is anything else to do we should do it, just to prevent this from happening.

However, if they strike us anyway, then we have to be prepared maximally for the situation like that, since we have to defend ourselves.

This is what I wanted to say.⁴³⁹

Mr. Milutinović expressly states that they should do whatever it takes to fulfil the call from the UN Security Council in Resolution 1199 and to achieve a peaceful, political solution to the problems in KiM through dialogue and reason.

175. By the end of October, the threat to the security of citizens and the integrity of the state and its institutions from the armed secessionist KLA had subsided and the conditions for continuing political and diplomatic efforts at finding a solution to the

⁴³⁶ 2D268; 2D70.

⁴³⁷ 2D67.Tr.13830-13833,13857;Tr.14004-14006.

⁴³⁸ P456.

⁴³⁹ P2831,pgs.10-11.

problems existed. The following agreements were in place: the Holbrooke-Milošević agreement had been concluded and endorsed by the Government of the Republic of Serbia in an 11-point framework and timetable;⁴⁴⁰ Kosovo Verification Mission Agreement between NATO and the FRY;⁴⁴¹ the Agreement on the OSCE Kosovo Verification Mission;⁴⁴² the Record of the Meeting between Representatives of the FRY, the Republic of Serbia and NATO on achieving full compliance with UN Security Council Resolution 1199;⁴⁴³ and the Understanding Between KDOM and Ministry of the Interior of the Republic of Serbia.⁴⁴⁴ Mr. Milutinović's presence at meetings in relation to the OSCE and NATO was consistent with his constitutional role as a representative of the state unity of the Republic of Serbia.⁴⁴⁵ Ambassador Knut Vollebaek, the former Head of the OSCE, testified that he met President Milošević three times. On one or two occasions, Mr. Milutinović was present at these meetings. Ambassador Vollebaek explained that Mr. Milutinović was present because Kosovo was a part of Serbia and they did not want to talk about Kosovo without the President of the Republic of Serbia present.⁴⁴⁶ General Klaus Naumann testified that in October 1998 during the technical negotiations in Belgrade, Mr. Milutinović was present but not very active.⁴⁴⁷

176. On 29 October 1998, the President of the FRY convened a meeting of the same individuals who had met on 20 July 1998. Four individuals who were present at this meeting testified: General Dimitrijević, Milomir Minić, Dušan Matković, and Zoran Andjelković. P2166 purports to be the Minutes of a meeting held on 29 October 1998, of a body called "Operations Inter-Departmental Staff for the Suppression of Terrorism in Kosovo and Metohija". The authenticity of this exhibit was challenged when the Prosecutor first tendered it. The Trial Chamber held that there were sufficient indicia of authenticity to admit it and the question of what weight, if any, ought to be given to it in due course, depended on developments in the evidence.⁴⁴⁸

⁴⁴⁰ 1D601. 1D204. Tr.13169-13170.

⁴⁴¹ P440.

⁴⁴² P432. 2D78. 2D81. 2D11; Tr.14001-14028.

⁴⁴³ P395.

⁴⁴⁴ P394.

⁴⁴⁵ Annex 2, P855, Article 9(2). 1D682, para.2.38 and Tr.12979-12980.

⁴⁴⁶ P2634, para.39.

⁴⁴⁷ P2561.

⁴⁴⁸ Tr.8611-8613; 8728-8731.

177. These Minutes are a forgery and they should be disregarded by the Trial Chamber. General Dimitrijević⁴⁴⁹ and Mr. Minić⁴⁵⁰ never heard of a body called the "Operations Inter-Departmental Staff for the Suppression of Terrorism in Kosovo and Metohija". Dušan Matković questioned the authenticity of these Minutes.⁴⁵¹ General Dimitrijević testified that this documents is a forgery. The person who is purported to have taken the Minutes is General Šušić, the Chief of the Military Cabinet of the President of the FRY. General Dimitrijević remembers sitting beside General Šušić at the meeting held on 29 October 1998 and he never saw him take notes at this meeting and the purported Minutes state that "no shorthand notes were kept".⁴⁵²

178. Furthermore, General Dimitrijević testified that these Minutes do not reflect any meeting he ever attended; there were no conclusions adopted by this body following a proposal by President Milošević; the word "joint command" was not used and there was no assessment of the "joint command" made during any such meeting. Quite simply, the whole document did not "look real" to him.⁴⁵³ Mr. Minić denied that he ever used the terms "operations staff" or "joint command" at any such meeting.⁴⁵⁴ Mr. Minić⁴⁵⁵, Mr. Matković⁴⁵⁶, and Mr. Andjelković⁴⁵⁷ had no recollection of the term "joint command" being used by anyone during any such meeting.

179. During the autumn of 1998, Mr. Milutinović toured twice in Kosovo to meet with local groups, officials and dignitaries. On 23 September 1998, shortly after a group of civilians were suspected of being killed by the KLA at Radonjić Lake,⁴⁵⁸ Mr. Milutinović spent less than one day in the region. At Radonjić Lake, he placed a wreath to commemorate the persons who had been killed. While in Priština, at the end of the day, he attended a very short gathering of MUP and VJ representatives. Zlatomir Pešić, an officer in the VJ was in attendance. He testified that Mr. Milutinović was a guest of the

⁴⁴⁹ Tr.26597.

⁴⁵⁰ Tr.14674.

⁴⁵¹ Tr.14609-14614;14626-14627.

⁴⁵² Tr.26597-26599;26610-26619.

⁴⁵³ Tr.26597-26599;26610-26619.

⁴⁵⁴ Tr.14767.

⁴⁵⁵ Tr.14768-14769.

⁴⁵⁶ Tr.14609-14614;14626-14627.

⁴⁵⁷ Tr.14711-14715.

⁴⁵⁸ Tr.5267-5268,5286-5287,5294; Tr.9811-9812,9862-9864.

MUP. Mr. Pešić was invited by General Pavković to attend. He sat in the fourth row of guests, while General Pavković sat in the front row. Mr. Pešić recalls that Mr. Milutinović spoke about the political and security situation in Serbia and how it reflected on the situation in KiM.⁴⁵⁹ Ljubinko Cvetić, an officer in the MUP, was in attendance. He testified that Mr. Milutinović stated that terrorism was defeated, that only minor terrorist groups remained and the conditions for resolving problems in KiM by peaceful means had been created. He expected the security situation would improve and that everyone should work in their respective line of work to resolve the problems.⁴⁶⁰

180. On 5 November 1998, Mr. Milutinović travelled to Priština for one day, along with the state delegation, established to meet and negotiate an agreement on self-governance with leaders in KiM, headed by Ratko Marković. It was the second time Mr. Milutinović had accompanied the state delegation to Priština.⁴⁶¹ Mr. Milutinović met with municipal presidents, republican and federal deputies and district chiefs from KiM. He explained that the agreement with the international community comprised a firm commitment for solving the problems in KiM by political means with full respect for the equality of all citizens and all ethnic communities. He called for the accelerated normalisation of the situation, the prevalence of reason over threats and blackmail, and finding a democratic, equal, and lasting political solution. He reconfirmed the state policy of Serbia that politically and diplomatically, Serbia is firmly committed to a political means to solving the problem in KiM.⁴⁶² The same day, Mr. Milutinović met members of the MUP and the VJ in Priština for approximately forty-five minutes. Ljubinko Cvetić was present at this meeting and he testified that Mr. Milutinović had had a prior meeting with political and business figures and leaders of Kosovo and Metohija. After that meeting, he came to a meeting attended by all chiefs of secretariats, commanders of units, and heads of the departments of internal affairs and the State Security Service. On that occasion, Mr. Milutinović gave a detailed explanation of each of the 11 points of the Milošević-Holbrooke agreement. He also said that the OSCE mission had representatives from 53 countries, that there were 2.000 monitors in Kosovo,

⁴⁵⁹ P2515,para.32;Tr.7215-7217.

⁴⁶⁰ Tr.8189.

⁴⁶¹ Tr.13170-13171.

⁴⁶² 1D45,Annex 7. Tr.13170-13172.

and that those monitors had to be fully supported so that they could gain an insight into the real state of affairs. He spoke about political and economic issues, saying that the Republic of Serbia would invest maximum efforts to help Kosovo and to help deal with the situation in Kosovo peacefully, using political means. That was the gist of his contribution.⁴⁶³

181. The meetings attended by Mr. Milutinović on 23 September and 5 November 1998, in Priština, attended by representatives of the MUP and VJ, were not meetings of the MUP Staff.⁴⁶⁴ Nor were these meetings in any way connected to MUP or VJ operations, deployment, or the like, but were in fact aimed at explaining state policy and steps taken to resolve the problems in KiM through political means.

182. Mr. Milutinović made a total of five day trips to KiM in 1998: four times with the state delegation (7 April, 5, 18, 25 November) and once after the killing of civilians by the KLA at Radonjić Lake (23 September).

RAMBOUILLET AND PARIS

183. The meetings held at Rambouillet (6-23 February 1999) and Paris (15-18 March 1999) are a matter of serious dispute between the Prosecutor and Mr. Milutinović. The Prosecutor alleges that the state delegation that attended these meetings did not engage seriously in reaching an agreement and that Mr. Milutinović actively obstructed the process and prevented an agreement from being reached. The evidence in this case demonstrates that the Prosecutor's allegations concerning Rambouillet and Paris and the allegations concerning Mr. Milutinović's acts and conduct are baseless and incorrect. The facts are that the state delegation came to France to continue the process of achieving an agreement on self-governance in KiM. The composition of the state delegation was virtually the same as the one created by the Government of the Republic of Serbia one year earlier. Mr. Milutinović was not a member of the state delegation. He supported the work and efforts of the state delegation in France once again as the "guarantor", as the

⁴⁶³ Tr.8187-8189.

⁴⁶⁴ Tr.23057-23058.

President of the Republic of Serbia, a symbol of state unity, and through his experience in politics and diplomacy.

184. The Rambouillet meetings were held in the Rambouillet castle, located south of Paris, France. The conference was called and organized by the Contact Group, which comprised six countries: USA (Madeleine Albright, Secretary of State), UK (Robin Cook, Foreign Secretary), France (Hubert Védrine, Foreign Minister), Germany (Joschka Fischer, Foreign Minister), Italy (Lamberto Dini, Foreign Minister), Russian Federation (Igor Ivanov, Foreign Minister). The co-chairs of the conference were Hubert Védrine and Robin Cook. The Contact Group was represented by three negotiators: U.S. Ambassador Christopher Hill, Austrian Ambassador and EU Special Envoy for Kosovo, Wolfgang Petritsch, and Russian Ambassador, Boris Mayorsky ("Negotiating Troika"). Each one of the Contact Group negotiators had a team of experts assisting him.⁴⁶⁵ At the time of the Rambouillet meetings, Germany held the Presidency of the EU.⁴⁶⁶

185. The meetings were originally schedule to last one week. By the end of the first week, however, only four Annexes of the Rambouillet agreement had been tabled.⁴⁶⁷ Ambassador Petritsch testified that negotiations with the Contact Group took up more time than the negotiations between the parties to the conflict. For this reason, some Annexes to the agreement were only agreed upon internally at a very late date and only reached the parties at a late stage.⁴⁶⁸ On 14 February, the Contact Group foreign ministers met in Paris and decided to extend the meetings for one week, until noon on Saturday, 20 February.⁴⁶⁹ By the end of the second week, a preamble and three more chapters of the Rambouillet agreement had been tabled, thus comprising the political components of the Rambouillet agreement.⁴⁷⁰ On 20 February, the Contact Group

⁴⁶⁵ Jim O'Brien, US State Department, assisted Ambassador Hill, Tr.4550 and Jan Kickert assisted Ambassador Petritsch.

⁴⁶⁶ Tr.4549-4550.

⁴⁶⁷ IC126; 1D18,pgs.418-425,Doc 5.

⁴⁶⁸ Tr.10843.

⁴⁶⁹ 1D672.

⁴⁷⁰ IC126, 1D18,pgs.431-438,Doc 15. The different parts of the Rambouillet agreement are now referred to as "Chapters" instead of "Annexes". Tr.4556-4558,4559-4560; Tr.10841-10842; Tr.13196-13198,13200-13201.

foreign ministers met once again and decided to extend the meetings until 15.00 on Tuesday, 23 February.⁴⁷¹

186. The basis for the meetings at Rambouillet was the Contact Group Non-negotiable Principles/Basic Elements, 30 January 1999 ("Non-negotiable Principles").⁴⁷² The Non-negotiable Principles included ten general elements:

- Necessity of immediate end of violence and respect for a cease-fire
- Peaceful solution through dialogue
- Interim agreement: a mechanism for a final settlement after an interim period of three years
- No unilateral change of interim status
- Territorial integrity of the FRY and neighbouring countries
- Protection of the rights of members of all national communities (preservation of identity, language and education; special protection for their religious institutions)
- Free and fair elections in Kosovo (municipal and Kosovowide) under supervision of the OSCE
- Neither party shall prosecute anyone for crimes related to the Kosovo conflict (exceptions: crimes against humanity, war crimes, and other serious violations of international law)
- Amnesty and release of political prisoners
- International involvement and full co-operation by the parties concerning implementation

It is important to underline that on 4 February 1999, at an Emergency Session,⁴⁷³ the National Assembly of the Republic of Serbia adopted Conclusions, accepting the invitation of the Contact Group for talks in Rambouillet and authorizing the Government to designate a delegation to attend.⁴⁷⁴ These Conclusions include the principles that the National Assembly believed formed the basis for the peaceful resolution to the problems in KiM:

The National Assembly of Serbia once again reaffirms the principles on the basis of which the crisis in Kosovo and Metohija can be resolved successfully, durably and in the interest of all. These are:

- political means and dialogue as the only way to achieve a peaceful and democratic solution of the crisis in Kosovo and Metohija;
- full respect of territorial integrity and sovereignty of Serbia and the FR of Yugoslavia;

⁴⁷¹ 1D674. Tr.10832-10833.

⁴⁷² 1D18,pg.414,Doc 11,Annex 8.

⁴⁷³ The National Assembly adopted the minutes of the Emergency Session held on 4 February 1999;1D32,pg.3.

⁴⁷⁴ 1D443,Item V,para.2.

- full equality of all citizens, all national communities and ethnic groups in Kosovo and Metohija, without possibility of anyone being overruled;
- solutions harmonized with the Constitutions of Serbia and the FR of Yugoslavia and the international standards in the field of human, civil and the rights of persons belonging to national communities;
- Kosovo and Metohija cannot be granted the status of a republic, but self-governance in line with the highest international standards within Serbia and the FR of Yugoslavia;
- we do not accept any measure which would change territorial integrity and sovereignty or attempt to secede Kosmet from Serbia;
- we do not accept the presence of foreign soldiers in our territory under any pretext of implementing the achieved agreement;⁴⁷⁵

The conclusions reached by the National Assembly authorised and mandated a framework according to which the delegation was to participate in talks in Rambouillet. The head of the state delegation, Ratko Marković explained that the delegations could not violate those principles, as the National Assembly is the highest authority in the republic and it nominated the delegation and give it its mandate. These principles had been previously used by the international community in their calls to participate in political dialogue and peaceful mechanisms to resolve the crisis rather than by armed conflict: autonomy for KiM at the highest international level, with full respect for sovereignty and territorial integrity of the FRY, full equality for all ethnic groups in KiM, political and legal solutions which were consistent with the constitutions of the FRY and the Republic of Serbia and international treaties concerning human rights. Finally, the Conclusions expressly stated that the National Assembly did not accept the presence of foreign troops on the territory of Yugoslavia and they rejected firmly any attempts that would lead to secession of KiM from Serbia.⁴⁷⁶

187. The prime minister of the Federal Government, Momir Bulatović, and the federal minister for foreign affairs, Živadin Jovanović, testified that the Federal Government adopted a platform for Rambouillet that was the same as the Conclusions expressed by the National Assembly of the Republic of Serbia. This was the unified political position in the country.⁴⁷⁷

⁴⁷⁵ 1D443. Tr.13184-13185.

⁴⁷⁶ Tr.13187-13188.

⁴⁷⁷ Tr.13845;Tr.14052-14053.

188. Ambassador Petritsch testified that he knew that the state delegation had a limited mandate to compromise and to come to an agreement on the political aspects of the proposal, i.e., the question and level of autonomy for Kosovo, but that it was clearly not mandated to negotiate about the implementation of such an agreement.⁴⁷⁸ He knew that the position of the National Assembly was that the level and nature of international presence in KiM had been defined in the agreement between Slobodan Milošević, and Ambassador Richard Holbrooke and the agreement between the Federal Government and the OSCE on the establishment of the OSCE verification mission in KiM.⁴⁷⁹ In particular, he knew that the National Assembly did not accept foreign troops on the territory for the implementation of an agreement.⁴⁸⁰ He was aware that negotiations on substantial or high degree of self-governance for KiM could not lead to independence for KiM or a status as a third federal unit, or imply the severance of legal, political, economic ties within the Republic of Serbia.⁴⁸¹

189. The state delegation appointed by the Government of the Republic of Serbia comprised thirteen members, headed by Ratko Marković and included many of the same individuals who had been working on the state delegation formed in March 1998. It had multi-ethnic representation from the republican level including four Serb members, and Albanian, Muslim, Turkish, Gorani, and Egyptian members.⁴⁸² Ambassador Petritsch testified that this composition of the state delegation was in keeping with the statement of the Contact Group issued on 29 January 1999, which provided that the Contact Group recognizes the legitimate rights of all other communities – aside from the Albanian community.⁴⁸³ In addition, the state delegation had two deputy prime ministers from the Federal Government, Mr. Šainović, who was tasked by the Federal Government to be in charge of foreign affairs and Vladen Kutlešić, a legal expert and the Special Envoy of the President of the FRY.⁴⁸⁴ Finally, the state delegation included Ambassador Nikola Čičanović, two experts in international law, the late Dr. Miodrag Mitić and Professor Radoljub Etinski, two high-ranking officials of the Ministry for Foreign Affairs, and a

⁴⁷⁸ P2792, Tr.10834.

⁴⁷⁹ Tr.10835. 1D443,Item II,para.11.

⁴⁸⁰ Tr.10837.

⁴⁸¹ Tr.10836. 1D443,Item II,para.14.

⁴⁸² 1D967. Tr.13188-13189,13536-13538.

⁴⁸³ P979. Tr.10838.

⁴⁸⁴ Tr.13846;Tr.13536.

number of aides who were there to assist with computer work, copying, and distribution of the materials.⁴⁸⁵ By contrast, the Kosovar Albanian delegation at Rambouillet was made up exclusively of Kosovar Albanians, and several prominent members of the KLA, including Hashim Thaci who was selected as head of the delegation.⁴⁸⁶

190. From the moment the first four parts of the Rambouillet agreement were tabled on 7 February, the state delegation worked resolutely and took concrete and positive steps to achieve agreement. For example, when the delegation first studied the draft text, they realized that some of the Non-negotiable Principles were either not envisaged or not fully envisaged. In addition, in an attempt to engage the Kosovar Albanian delegation and to ascertain whether the Kosovar Albanian delegation accepted the Non-negotiable Principles, the state delegation wrote to the Negotiating Troika on 9 February to request a meeting between both delegations and to have both delegations and the Negotiating Troika sign the Non-negotiable Principles.⁴⁸⁷ The Kosovar Albanian delegation refused to meet with the state delegation and refused to sign the Non-negotiable Principles. On 11 February, at the suggestion of UK foreign secretary and co-chair of the Rambouillet meetings, Robin Cook, the state delegation unilaterally signed the Non-negotiable Principles.⁴⁸⁸ On that occasion, the state delegation was assured by Hubert Védrine, Mr. Cook and the Negotiating Troika that the sovereignty and territorial integrity of the FRY was absolutely secured and would be preserved.⁴⁸⁹

191. Repeated requests by the state delegation to hold face-to-face meetings were always declined by the Kosovar Albanian delegation. The state delegation was prepared to meet the Kosovar delegation, with or without the presence of the Negotiating Troika, with a view to have direct talks and a frank exchange of views. However, organisers of the Rambouillet talks kept the two delegations physically separated.⁴⁹⁰

⁴⁸⁵ Tr.13540-13541.

⁴⁸⁶ Tr.10838.

⁴⁸⁷ 1D122. Tr.13191-13192; 1D123. Tr.13192-13193, 13551-13552.

⁴⁸⁸ 1D124. 1D95. Tr.13193-13195.

⁴⁸⁹ P2662. Tr.10713, 10717.

⁴⁹⁰ Tr.13551-13552, 13194-13195, 13198-13199.

192. On 12 February, the second last day of the meetings, according to the original one-week schedule, the state delegation wrote to the Negotiating Troika and requested that they be provided with all relevant documents for discussion as soon as possible.⁴⁹¹ The state delegation had asked for the entire text of the Rambouillet agreement since the first day of the talks because they believed that the only way to make progress was to be able to assess the entire document and provide the Contact Group with its standpoint.⁴⁹²

193. On 16 February, at the beginning of the second week, the state delegation received four additional parts of the draft agreement and they were informed by the Negotiating Troika that this constituted the entire agreement: Preamble, Framework, Chapter 1: Constitution, Chapter 3: Conduct and Supervision of Elections, Chapter 4: Economic Issues, Chapter 4A: Humanitarian Assistance, Reconstruction and Economic Development, and Chapter 8: Amendment, Comprehensive Assessment, and Final Clause.⁴⁹³ That same day, it presented the Negotiating Troika with full comprehensive comments and response on the draft agreement.⁴⁹⁴ Ambassador Petritsch testified that based on these comprehensive comments, the state delegation was ready to accept these political parts of the agreement which had been thoroughly negotiated and backed by the whole Contact Group.⁴⁹⁵

194. In contrast, on 18 February, the Kosovar Albanian delegation sent a letter of protest to the Negotiating Troika and rejected this final draft.⁴⁹⁶ Veton Surroi testified that members of the Kosovar Albanian delegation were so annoyed with the draft document that they would not touch it and announced that they wanted to quit.⁴⁹⁷ In addition, the Kosovar Albanian delegation issued a public statement which, *inter alia*, made the following points: the delegation returned the draft on the political aspects of the settlement to the negotiators as a procedurally and substantively unacceptable document; they complained about the insertion of the word "sovereignty" in the preamble; they

⁴⁹¹ 1D96.

⁴⁹² 1D589, Tr.13199-13200.

⁴⁹³ IC126, 1D18,pgs.431-438,Doc 15. Tr.4556-4558;Tr.10841-10842;Tr.13196-13198,13200-13201.

⁴⁹⁴ 1D18, pgs.429-430,Doc 11. Both delegations presented comprehensive comments and responses to the draft agreement, Tr.4558; Tr.10850.

⁴⁹⁵ Tr.10855-10856; P563,pg.1.

⁴⁹⁶ Tr.10856, P563,pgs.1-2.

⁴⁹⁷ Tr.4560.

objected to the formal declaration that the authorities of governance set forth in the agreement originate from the FRY, and that the rights and powers of Kosovo are derived from the FRY; and, finally, they stated that a referendum on the further status of Kosovo must be held after the expiry of an interim period.⁴⁹⁸ Ambassador Petritsch testified that after they received this response, he pointed out and made clear to the Kosovar Albanians that the co-chairs and the Negotiating Troika had assured the state delegation, through Mr. Marković that the sovereignty and territorial integrity of the FRY would be preserved. He told the Kosovar delegation that according to the Non-negotiable Principles, that they were negotiating a high level of autonomy and that there would be no independence or separation of KiM from the FRY.⁴⁹⁹

195. In the light of these developments, on 19 February, Hashim Thaci, head of the Kosovar Albanian delegation, was permitted to travel to Ljubljana, Slovenia to consult with Adem Demači. Mr. Demači, a senior figure in the KLA, was a spokesman and political advisor, and considered to be a notorious ideologue of the KLA. He had spent many years of his life in prison for inciting terror and terrorism and, as spokesman for the KLA, he confirmed that Serbs abducted in 1998 ought to be presumed dead.⁵⁰⁰ Mr. Demači was against the agreement. But, when Mr. Thaci returned from his meeting with him, he told Ambassadors Hill and Petritsch that he would sign the agreement.⁵⁰¹ The same day, in the evening, NATO general Wesley Clark met secretly with KLA members of the Kosovar Albanian delegation away from the premises of the Rambouillet castle in an attempt to persuade them to sign the Rambouillet agreement.⁵⁰² He reviewed with them what would become the implementation sections of the agreement – Chapters 2, 5, and 7 – which had been finalized by NATO but not accepted by the Contact Group, or tabled at Rambouillet.⁵⁰³

196. On the night between 19 and 20 February, Professor Marković, Professor Kutlešić, Ambassador Petritsch, and US representatives Jim O'Brien and John Levitsky,

⁴⁹⁸ 1D18,pgs.441-442,Doc 17. Tr.4560-4564; Tr.10857-10859.

⁴⁹⁹ Tr.10859-10860.

⁵⁰⁰ Tr.614, 19195.

⁵⁰¹ Tr.4565;Tr.10865-10866;Tr.11257.

⁵⁰² Tr.4565;Tr.10924.

⁵⁰³ Tr.10866-10867.

worked from 19:00 until 05:00 finalizing the text of agreement prior to the deadline of 20 February. Professor Marković testified that they worked intensely through the night, until dawn, on the exact wording of a final agreement.⁵⁰⁴ The state delegation was prepared to accept the agreement which had been tabled, provided some corrections were made to the text. Ambassador Petritsch testified that the state delegation worked substantially and they made significant progress by agreeing to a compromise political and legal system for KiM.⁵⁰⁵

197. The last scheduled day for the Rambouillet meetings was Saturday, 20 February. That day, the Negotiating Troika, along with the six foreign ministers of the Contact Group came to the Rambouillet castle to hear whether the two delegations were prepared to accept the political elements of the Rambouillet agreement which had been tabled on 16 February and finalized in the following days.⁵⁰⁶ On this occasion, Mr. Milutinović accompanied members of the state delegation to the meeting with the Contact Group foreign ministers. He had come to France at the end of the first week of the meetings (which were originally scheduled to last one week).⁵⁰⁷ Mr. Milutinović was not a member of the state delegation. Ambassador Petritsch and Professor Marković testified that Mr. Milutinović was present in France in the same capacity that he fulfilled when he accompanied the state delegation to Priština in 1998. His presence underlined the importance Serbia attached to the talks and in his capacity as President of the Republic, a symbol of state unity. He had always been earnestly involved in the entire process of attempting to find a peaceful and lasting political solution to the problems in KiM. Mr. Milutinović stayed in Paris, where he served as an informal contact point, along with other political figures from Yugoslavia such as federal deputy prime minister, Mr. Vuk Drašković. Mr. Milutinović would occasionally visit the Rambouillet castle and he became more engaged and involved on a political level when it came to contacts with the Contact Group foreign ministers. Mr. Milutinović had known and worked with these foreign ministers both while he was ambassador to Greece (1989-1995) and as FRY

⁵⁰⁴ Tr.13208,13213-13214,13619-13620.

⁵⁰⁵ P2792,pg.4; Tr.10874-10875.

⁵⁰⁶ Tr.10860;Tr.4566.

⁵⁰⁷ Tr.10848; 1D94.

foreign minister (1995-1997).⁵⁰⁸ Mr. Milutinović informed the Contact Foreign ministers that the agreement was generally acceptable.⁵⁰⁹

198. On the same day, at the meeting with the Contact Group foreign ministers, the representatives of the Kosovar Albanian delegation rejected the Rambouillet agreement. The Kosovar Albanians were represented by Mr. Thaci, Mr. Surroi, Dr. Rugova, Mr. Qosja. Just prior to the meeting with the foreign ministers, Ambassador Petritsch and German foreign minister Fischer had met with the head of the Kosovar Albanian delegation, Hashim Thaci and, based on their conversation, they expected Mr. Thaci to say that he accepted the agreement.⁵¹⁰ Mr. Surroi and Ambassador Petritsch gave evidence in relation to this meeting.⁵¹¹ When Italian foreign minister Dini asked Mr. Thaci whether the delegation could accept the agreement with no reference to a referendum, Mr. Thaci replied that they could not accept it.⁵¹² The document ruled out independence and a referendum was not mentioned. Mr. Thaci stated that that they would sign the document but it must include a referendum.⁵¹³ At that point, Ambassadors Petritsch and Hill realized that Mr. Thaci was not going to say "yes". Mr. Dini turned to Mrs. Albright and gestured: "you see, I told you so", and he declared that one cannot negotiate in these circumstances. Mrs. Albright looked surprised and worried. She had expected the Kosovar Albanian to accept the agreement and she took off her earphones and put them down on the table in pure exasperation.⁵¹⁴ Mr. Cook stated that "something is missing" and the improvements to the agreement that Mr. Thaci wanted were unnegotiable, they were impossible to get agreement on.⁵¹⁵ The meeting with the foreign ministers was immediately adjourned.

199. The Rambouillet conference was extended another three days until 23 February 1999. Over these three days, steps were taken by US Secretary of State, Madeleine Albright and her associates, including Contact Group negotiator, Ambassador Hill to pin

⁵⁰⁸ Tr.10848-10849; Tr.13194,13541-13542.

⁵⁰⁹ Tr.10874-10875.

⁵¹⁰ Tr.10864-10865.

⁵¹¹ Tr.4566;Tr.10860-10863.

⁵¹² 1D205,Annex 9.

⁵¹³ Ibid.

⁵¹⁴ Ibid.

⁵¹⁵ Ibid.

blame in the public eye on the Serbs for the breakdown of the talks at Rambouillet and later in Paris and for failing to accept an agreement with the Kosovar Albanians. The Prosecutor asserts this version of events and blames Mr. Milutinović in particular for being responsible for obstructive behaviour which resulted in no agreement being reached during this process. The Prosecutor alleges that this demonstrates criminal intent and criminal conduct on the part of Mr. Milutinović: causing the intentional breakdown of the Rambouillet/Paris process to create a window of opportunity for the Serbs to achieve their alleged aim of modifying the ethnic balance of KiM under the guise of crushing the KLA.⁵¹⁶

200. Nothing could be further from the truth. The state delegation and Mr. Milutinović always favoured the political components of the Rambouillet agreement and were prepared to negotiate the scope and character of the international presence in KiM to implement the agreement. The Kosovar Albanians on the other hand rejected the political components of the Rambouillet agreement because they did not include referendum within KiM on independence and because they were opposed to the dismantling of the KLA. The evidence in this case shows that US Secretary of State, Mrs. Albright gave the Kosovar Albanians secret written assurances that a referendum on independence would be held within KiM, at the end of the three-year term of the agreement. These secret assurances were given despite the Non-negotiable Principles and assurances by the co-chairs of the meetings made to the state delegation that the sovereignty and territorial integrity of the FRY were absolutely secured and preserved. They were contrary to the position of the other members of the Contact Group, the EU, and the FRY, which opposed inclusion or reference to a referendum in the Rambouillet agreement. These secret assurances from Mrs. Albright were the incentive the Kosovar Albanians needed to accept the Rambouillet agreement. It also created the public perception that the Serbs were the cause of failure of the Rambouillet/Paris process, which was the justification for NATO's 78-day bombing campaign of the FRY. The fact of the matter is that no blame, criminal intent or criminal conduct can be ascribed to Mr. Milutinović regarding any of these events. He continued to work and use his best efforts

⁵¹⁶ Tr.431-432.

to engage in the process for finding a peaceful resolution to the problems in KiM in both Rambouillet and Paris.

201. Veton Surroi testified that in the days following the meeting with the Contact Group foreign ministers on 20 February, Mr. Thaci was opposed to the agreement and was actually working against signing it.⁵¹⁷ Ambassador Petritsch described the situation to his foreign ministry in Vienna in these terms:

“The situation in Rambouillet took a **dramatic turn for the worse** from 21 to 22 February. The US and EU negotiators and their teams, going full speed ahead on 21 February and in particular in the night of 21 to 22 February, endeavoured in talks with the Kosovar and Serb sides, one after the other, to achieve agreement on the text of the political agreement. Their particular aim was to get agreement as early as possible from the Kosovar side. Nothing has changed on the now stubborn stance on the **referendum issue** evident since Saturday morning. It is becoming increasingly clear, however, that the real reason for the Kosovar intransigence is the **dissolution of the KLA /Kosovo Liberation Army/** as foreseen in the agreement.

Gef. /expansion unknown/ had a last meeting with the Yugoslav/Serb delegation at 02:30 hours. The only points remaining open were the *review clause* and minor Kosovar comments on the wording for procedure when the vital interests of national communities are under threat.⁵¹⁸

Italian foreign minister, Lamberto Dini stated that the refusal of the Kosovar Albanians to accept the agreement at the meeting with the Contact Group foreign ministers on 20 February made the American delegation very nervous because the strategy that the Americans had developed was disintegrating.⁵¹⁹ Mrs. Albright held a private meeting with Mr. Thaci where she said reprimanded him for refusing to agree to the political components of the Rambouillet agreement. She said to him: “Look, I don’t understand what just happened in there. You have let us down. It is an impossible situation now. How could you do this? We expected you to be a leader”. Mr. Thaci said that Mrs. Albright told him: “If you sign and the Serbs don’t, we will bomb. We will activate. If you don’t sign and the Serbs accept, our hands are tied”. Mrs. Albright’s threat of bombing the Serbs, if the Kosovar Albanians signed and the Serbs did not, was also made in the presence of Veton Surroi⁵²⁰ and was known to have been made by Mrs. Albright by

⁵¹⁷ Tr.4574.

⁵¹⁸ P2660.

⁵¹⁹ 1D205, Annex 9.

⁵²⁰ Tr.4554.

Ambassador Petritsch.⁵²¹ Mrs. Albright described Mr. Thaci at this meeting with her, as looking shocked, like a high school student she had dressed down. Nonetheless, in public, Mrs. Albright blamed the Serbs for the non-acceptance of the Rambouillet agreement and the extension of the talks until 23 February. She stated: "The Serb delegation bears the lion's share of responsibility for the difficulties we have experienced today".⁵²²

202. On 21 February, Mrs. Albright and her spokesman from the US State Department, Jamie Rubin had a working lunch with Mr. Thaci, Mr. Surroi, Mr. Qosja, and Mr. Rugova. Veton Surroi testified that they wanted the Rambouillet agreement to include an explicit reference to the right of the people of KiM to hold a referendum on the final status of KiM – a right to statehood after a three year period. Chapter 8, Article 1(3) of the Rambouillet agreement – "Amendment, Comprehensive Assessment, and Final Clauses" – did not include a provision on a referendum:

Three years after entry into force of this agreement, an international meeting shall be convened to determine a mechanism for a final settlement for Kosovo on the basis of the expressed will of the people, opinions of relevant authorities, each party's efforts regarding the implementation of this agreement, and the Helsinki Final Act, and to undertake a comprehensive assessment of the implementation of this agreement and to consider proposals by any party for additional measures.⁵²³

At the request of Mr. Surroi, Mrs. Albright agreed that she would provide the Kosovar Albanian delegation with a side-letter giving assurances that the USA understood the phrase "expressed will of the people" (Chapter 8, Article 1(3)) to mean the right of the people of Kosovo to hold a referendum on independence. The letter Mrs. Albright prepared, reads as follows:

Three years after entry into force of this agreement, an international meeting shall be convened to determine a mechanism for a Final Settlement for Kosovo on the basis of the expressed will of the people, opinions of relevant authorities, each Party's efforts regarding the implementation of this agreement, and the Helsinki Final Act, and to undertake a comprehensive assessment of the implementation of this Agreement and to consider proposals by any Party for additional measures.

Rambouillet, 22 February 1999

This letter concerns the formulation (attached) (*above*) proposed for Chapter 8, Article 1

⁵²¹ Tr.10896.

⁵²² 1D205,Annex 9.

⁵²³ P474,pg.25: Chapter 8,Article 1(3). P2660.

(3) of the interim Framework Agreement. We will regard this proposal, or any other formulation of that Article that may be agreed at Rambouillet, as confirming a right for the people of Kosovo to hold a referendum on the final status of Kosovo after three years.

Sincerely

Madeline Albright, Secretary of State⁵²⁴

203. Veton Surroi then showed this letter to Ambassador Petritsch and he requested that the EU provide the Kosovar Albanian delegation with a similar letter.⁵²⁵ Ambassador Petritsch consulted with German foreign minister Fischer (Germany held the Presidency of the EU). The Europeans were completely opposed to a side letter from the Americans. By the evening of 22 February, they expressed their opposition to Mrs. Albright and the Kosovar Albanian delegation was informed by Mrs. Albright and others that the side letter was withdrawn and that the reference to a referendum and the continued existence of the KLA were out of the question.⁵²⁶ Ambassador Petritsch reported back to his foreign ministry in Vienna, as follows:

The agreement of the Kosovars is still more than questionable at the present moment in time. The KLA is reported to be on the verge of leaving the delegation and Thaçi is said to have spoken in favour of a continuation of the KLA's armed struggle. From Tirana, we have learned that the KLA has now, for the first time, appointed a supreme commander, Suleyman SELIMI (Sultan), who up to now has been commander of the Drenica faction, which is regarded as extremist. In a last-ditch attempt, the Kosovars wanted to take out the wording "a mechanism for" and replace the words "the people" with "its people". Krasniqi of the KLA faction of the negotiating team announced that his delegation had three **negotiation objectives**, i.e.

- a referendum after an interim period,
- continued existence of the KLA and its transformation into a sort of (Kosovo-wide) gendarmerie (with a total of 6,000 police instead of 3,000), and
- the stationing of NATO troops.

The Kosovar delegation was informed, by Albright among others, that the referendum and the continued existence of the KLA were out of the question. Also stressed in this connection were **the grave and irreparable consequences of a Kosovar rejection of the draft agreement**.

Further procedure:

0900 hours internal meeting of the Kosovars

1000 hours Albright with the Kosovar delegation

1100 hours meeting of the contact group at the PD /expansion unknown/ level.

⁵²⁴ 1D18,pg.449,Doc 27. Tr.4570-4574.

⁵²⁵ Tr.4571.

⁵²⁶ Tr.10741-10742.

Several **concomitant measures** were agreed upon to ensure a positive decision by the Kosovars:

- that the government in Tirana be able to play an active role,
- individual talks with representatives of the KLA,
- warning that various measures would be taken, even a US statement, to put the KLA on the list of terrorist organisations.⁵²⁷

204. The next morning, 23 February, on the final scheduled day of the Rambouillet talks, at 09:30 the state delegation was given a version of the Rambouillet agreement which included for the first time Chapters 2, 5, and 7.⁵²⁸ Chapters 2 and 7 had not been approved by the Contact Group and the Russian Federation did not associate itself with these sections of the document. Ambassador Mayorsky signed the cover letter enclosing the Rambouillet agreement which stated that Russia did not associate itself with these chapters and under his signature he wrote “except Chapters 2 and 7”.⁵²⁹ These chapters had been finalized previously by NATO. They were given to the Kosovar Albanian delegation on 18 February⁵³⁰ and discussed secretly between General Clark and KLA members of the Kosovar Albanian delegations outside the premises of the Rambouillet castle on 19 February.⁵³¹ Furthermore, at 19:00 on 22 February, the state delegation had refused to accept Chapters 2, 5, and 7 at a meeting between experts of the state delegation and the Negotiating Troika which was announced as an exchange of information about the comments on the Rambouillet agreement. Ambassador Mayorsky informed the state delegation that these parts of the agreement had not been discussed or approved by the Contact Group.⁵³² Based on that information, the state delegation sent a letter to the co-chairs of the meetings, Mr. Védérine and Mr. Cook, indicating that they had come to the talks at the invitation of the Contact Group and that they did not accept this documentation, which had not been previously adopted by the Contact Group.⁵³³ Indeed, the Contact Group statement of 29 January 1999, stated that the Contact Group “required

⁵²⁷ P2660.

⁵²⁸ IC126; P474;1D98: Chapter 2, Chapter 5, Chapter 7.

⁵²⁹ 1D98.

⁵³⁰ P563, Autro-AMB Belgrade to FOR-Min Vienna, Email Dispatch, 19 February 1990: “Annexes 1-A (Military) and 2 (Police) were transmitted to Kosovar delegation on the afternoon of 18 Feb. Opinion still outstanding, apparently because translation not yet complete” and “On 18 Feb. Annex 5 (Civil Implementation) was finally agreed within the CG and with the OSCE. It empowers both the OSCE and the EU to engage in civil implementation. It will be put to the Kosovar side today (19 Feb.).

⁵³¹ Tr.4565;Tr.10924.

⁵³² Tr.13201-13203.

⁵³³ 1D97.

that the parties accept the level and nature of international presence deemed appropriate by the international community".⁵³⁴ The position taken by the state delegation in relation to Chapters 2, 5 and 7 was entirely legitimate given the position of the Russian Federation, a member of the Contact Group and a permanent member of the UN Security Council.

205. The claim made by Ambassador Petritsch that Chapters 2, 5 and 7 had been provided to the state delegation on 18 February is incorrect.⁵³⁵ He acknowledged that he has no personal knowledge about it, as he had been told about it by Ambassador Hill. His testimony is contradicted by the diplomatic correspondence he sent to Vienna on 19 February which indicates that only the Kosovar Albanian delegation received the implementation chapters.⁵³⁶ In addition, in the *Milošević* trial, his testimony is consistent with the evidence that the military component of the agreement was given to the state delegation the last day of talks, as all the other surrounding testimony and documentation indicates. In the *Milošević* proceedings, he made no reference to the implementation sections of the agreement being given to the state delegation earlier nor is there any reference to information from Ambassador Hill to that effect.⁵³⁷ There is no explanation why his knowledge or information should have changed since he reported on events at Rambouillet or testified in *Milošević*. Finally, in response to statements in the media and elsewhere about NATO military forces in KiM, on 19 February the FRY federal ministry of foreign affairs reported to the Federal Government that the state delegation had not received any "military Annex" or similar proposals at Rambouillet.⁵³⁸

206. When the full text of the Rambouillet agreement was transmitted to the state delegation at 9:30 a.m. on 23 February, the cover letter enclosed with the documentation stated that the co-chairs and the Negotiating Troika were ready to receive the responses of the delegations no later than 1 p.m. the same day.⁵³⁹ This final version of the Rambouillet agreement comprises eighty one pages, forty-two pages of which were

⁵³⁴ P979, para.4.

⁵³⁵ Tr.10925.

⁵³⁶ *Supra*, footnote 520.

⁵³⁷ P2793, Tr.7256,7258-7259,7267.

⁵³⁸ 2D211. Tr.14061.

⁵³⁹ 1D98.

Chapters 2, 5, and 7. In addition to presenting these implementation sections at the 11th hour, without the prior approval or agreement of the Contact Group, it was known that the state delegation was given a limited mandate from the National Assembly of the Republic of Serbia to negotiate a political agreement on self-governance in KiM. The mandate explicitly forbade the state delegation from accepting the presence of foreign soldiers in the territory under any pretext of implementing the achieved agreement.⁵⁴⁰

207. Federal minister of foreign affairs, Živadin Jovanović testified how this Chapter violated the sovereignty and territorial integrity of the FRY.⁵⁴¹ A perusal of Chapter 7 shows that it largely limited or totally ignored the sovereignty and territorial integrity of Serbia and the FRY which would amount to a total occupation of the country. This was reflected in the following provisions: reducing the number of VJ members to several hundreds to control the border towards Albania and Macedonia; when passing through the territory of KiM VJ soldiers would use only a narrow corridor to border, without stopping; units of MUP of Serbia would be totally dislocated from the Province; the regulations concerning passports and visas and registration requirements for foreigners would not apply to multinational force (NATO); at all points for entry/exit the territory of the FRY, personnel would enter and exit only with identity cards issued by their states; they would not be subject to any legal, civil, administrative or criminal proceedings; in all circumstances and at all times they would enjoy immunity regarding any violations committed in the territory of the FRY, or any arrest, investigation or detention by the FRY authorities; the personnel would enjoy, together with their vehicles, vessels, aircraft and equipment free and unimpeded access throughout the FRY, including air space and territorial waters, without an obligation to pay any duties, taxes, levies or other costs for their use; they would have the right to bivac, manoeuvre and use all facilities in the territory of the FRY for training and operations; they would be exempt from paying any duties concerning inspection and customs and submission of documents thereof; salaries of members of international force would not be subject to taxes; their physical movable property that would be imported, acquired or exported from the FRY would be exempt from payment of all duties concerning inspection and customs; those forces would be

⁵⁴⁰ 1D443, Item II, paras. 11 and 14; Tr. 13184-13185; P2792; Tr. 10834-10837.

⁵⁴¹ P474, Chapter 7, Appendix B, Articles 8, 15, 21; Tr. 14058-14059.

allowed to import and export without any expenses, taxes or other levies, the necessary equipment for their official purposes or sale to their personnel; also, the use of internal postal services, electricity, water, gas and other resources for their operations would be acquired at the lowest price; they would enjoy immunity from charges of any kind, which may be a result of the activities during operations; they would directly conclude contracts to purchase goods and carry out services within the FRY or outside it; they could carry out construction works with their own work force; local personnel in the service of the international force would enjoy their total protection; NATO force would have the authority to detain persons and surrender them as soon as possible to the relevant authorities.

208. The state delegation continued to work in good faith and by 1 p.m. on 23 February, they provided a response to the Negotiating Troika, as requested.⁵⁴² This letter highlights that major progress was achieved in defining a political solution on important issues related to substantial self-government in KiM within the Republic of Serbia. It identified the particular matters where there was full agreement and elements for self-governance which require further elaboration and agreement. The state delegation further expressed its readiness to continue the work, and to set a reasonable deadline to create appropriate conditions and a different approach to successfully resume the work and successfully address those questions. Ambassador Petritsch testified that this letter expressed two legitimate concerns on the part of the state delegation: specific refinement of the political components were necessary in order to bring them in line with the federal constitutional and legislative order in the FRY and more time was needed to discuss implementation.⁵⁴³ In particular, he recognized that contentious issues both on the political components and implementation needed to be re-visited.⁵⁴⁴

209. Nonetheless, Ambassador Petritsch was of the view that this letter was insufficient and required a statement from the state delegation that they were open for the continuation of talks on implementation. At 14:30, the state delegation presented a

⁵⁴² 1D18,pg.467,Doc 31. Tr.10747.

⁵⁴³ Tr.10936-10937.

⁵⁴⁴ Tr.10933-10934.

second letter to the Negotiating Troika.⁵⁴⁵ This second letter is a more condensed version of the first one. It repeats the progress made on the elaboration of the political points in the agreement, which had been understood by the Contact Group through the work of the state delegation and contact with Mr. Milutinović, and the outstanding matters which needed to be addresses on the question of self-governance in KiM. Then the letter specifically addresses the concern raised by Ambassador Petritsch: "the FRY agreed to discuss the scope and character of international presence in Kosmet to implement the agreement to be accepted in Rambouillet".

210. At 16:00, the same day, the Negotiating Troika received a third and final letter from the state delegation, which was very similar in content to the previous one.⁵⁴⁶ In particular, it emphasized the progress made on the finalization of the components on self-governance in KiM. The letter clearly states the position of the state delegation in relation to the continuation of the talks:

Therefore, all elements of self-government at the time of defining the Agreement have to be known and clearly defined. In further work, this should be adequately addressed and consistently resolved. In that sense, we are ready to participate in the next meeting on the issue.

The FRY agreed to discuss the scope and character of international presence in Kosmet to implement the agreement to be accepted in Rambouillet.

As with the previous letters, Ambassador Petritsch considered this letter constructive.⁵⁴⁷

211. On the morning of 23 February, the Kosovar Albanian delegation also received the full Rambouillet agreement and they were told by Ambassador Hill that they should give their response to the Contact Group in the afternoon. Veton Surroi was present and described the events which unfolded that day. The Kosovar Albanians refused to work on the agreement. Instead of working, they went for a big meal and wasted time over dessert. Ambassador Hill was upset that they were not working or making any progress on finding a solution.⁵⁴⁸ Later in the afternoon, after the 1 p.m. deadline, Ambassador Hill returned to the Kosovar Albanian delegation. He arrived in a sweat, his tie was askew. He stated: "Guys, we're there now. We've got five minutes now to really decide

⁵⁴⁵ 1D18,pg.467,Doc 32. Tr.10747.

⁵⁴⁶ 1D18,pg.467,Doc 33. Tr.10748; (1D582, Tr.13208-13209,13562-13564).

⁵⁴⁷ Tr.10928.

⁵⁴⁸ Tr.4575-4576.

this thing. So are you going to sign this thing, or are you not?"⁵⁴⁹ Veton Surroi suggested that the Kosovar Albanians could address a letter to Mrs. Albright stating, *inter alia*, that the Rambouillet agreement does not preclude a referendum on Kosova, which will demonstrate the will of the people of Kosova. The letter was typed up on the computer of the interpreter, Dugi Gorani in the presence of the Albanian Delegation, Ambassador Hill, Jim O'Brien and others from the U.S. State Department. As Mr. Gorani typed up the letter, people from the US delegation blocked Hashim Thaci's access to the computer, like in a basketball game. Jim O'Brien and Jamie Rubin said that Mr. Thaci could read the letter later. Mr. Surroi signed the letter and it was given to Mrs. Albright⁵⁵⁰. The letter reads, as follows:

Madam Albright,

The Delegation of Kosovo has conveyed to the negotiators its acceptance of the Interim Agreement for Peace and Self-Government in Kosova as presented to the negotiators today, subject only to final technical review.

We want to convey to you our understanding on two points. First, we acknowledge your view that the Agreement allows and does not preclude a referendum in Kosova, which will demonstrate the will of the people in Kosova, and which will be conveyed to the international meeting to be convened to determine a mechanism for a final settlement for Kosova, as called for in Article I (3) of Chapter 8.

Second, we welcome the opportunity to work with the United States on the transformation of the KLA. We understand that Ambassador James Dobbins will serve as the Representative of the United States in the implementation process of this agreement. We look forward to cooperating with him in this regard. We will convey the name of our representatives as soon as practical.

Thank you for your efforts on behalf of the people of Kosovo.

The delegation of Kosova⁵⁵¹

212. When the letter was shown to Ambassador Petritsch, he tried to distance himself from it. When asked directly whether there were any documents, agreements, side deals, or side letters that were not tabled or made known to the parties at Rambouillet, he stated that he did not know of any.⁵⁵² However, when confronted with the letter from the

⁵⁴⁹ 1D205, Annex 9, pg.3.

⁵⁵⁰ Tr.4576-4577.

⁵⁵¹ 1D18, pg.468, Doc 35. Tr.8456.

⁵⁵² Tr.10889-10890.

Kosovar Albanian delegation to Mrs. Albright, Ambassador Petritsch admitted that he did learn about it shortly after the Rambouillet talks ended.⁵⁵³ He further acknowledged that the letter from the Kosovar Albanians to Mrs. Albright was just a mirror image of the letter Mrs. Albright had drafted to give to the Kosovar Albanians, which the EU and the Contact Group had vetoed as unacceptable. He explained that the Americans did this without the knowledge of the other Contact Group foreign ministers.⁵⁵⁴ He considered it a bilateral dealing between the US government and the Kosovar Albanians, which did not include the Negotiating Troika.⁵⁵⁵ It did however include one member of the Negotiating Troika, Ambassador Hill. He admitted that the Serbs were never made aware of the secret side-letter between the Kosovar Albanians and Mrs. Albright.⁵⁵⁶ After Veton Surroi had signed the letter, Jim O'Brien gave it to Jamie Rubin, spokesman from the U.S. State Department, who took it to Mrs. Albright. She told him to make a public announcement. Mr. Rubin told the media that the Kosovar Albanian delegation had voted in favour of the agreement – pending further consultations with the people of Kosovo: “the Albanians had chose peace – and deferred independence – and the Serbs had not. And, now, there was clarity that the world needed in deciding whose side they should be on”.⁵⁵⁷

213. At the same time that Ambassador Petritsch claims ignorance of the secret side-letter between the Kosovar Albanians and Mrs. Albright, he and Ambassador Hill worked with the Kosovar Albanians in the preparation of the public announcement issued by the Kosovar Albanians at the conclusion of the Rambouillet talks. He sent the following dispatch to his foreign ministry in Vienna at 12:30 on 23 February 1999:

At PD /expansion unknown/ level the CG /Contact Group/ consented to the negotiated text with minor changes in the night between 22 and 23 February. Following the wishes of France, Italy and the UK, the word “expressed” before “will of the people” was stricken from the text of the review clause and a passage was added stipulating that the three negotiators would also sign as witnesses. This final text was given to the delegations at 1000 hours with the request to submit their responses by 1300 hours.

Hill and Gef. offered the Kosovars were offered the following approach to resolving their

⁵⁵³ Tr.10908-10910.

⁵⁵⁴ Tr.10917-10918.

⁵⁵⁵ Tr.10908-10910.

⁵⁵⁶ Tr.10737.

⁵⁵⁷ 1D205,Annex 9,pg.3.

problems:

- A public statement of the acceptance of the Agreement.
- a simultaneous suggestion to sign the Agreement in two weeks in order to garner support from the (Kosovo) population in the meantime.
- emphasise that NATO Ground Forces are a condition for the acceptance of the Agreement (in order to bolster the potential threat of a NATO intervention in the eyes of Belgrade).
- A unilateral statement that the Kosovo delegation has interpreted “will of the people” as “Referendum”, the results of which will have to be taken into consideration when deciding about the final status of Kosovo.⁵⁵⁸

As this document indicates, and as Ambassadors Petritsch testified, mid-day on the last day of the Rambouillet meetings, he and Ambassador Hill were advising the Kosovar Albanians to make a unilateral declaration which states that the phrase “will of the people” will be interpreted as “referendum” the results of which will have to be taken into consideration when deciding about the final status of Kosova. Ambassadors Petritsch and Hill knew that the Contact Group, the EU were absolutely opposed to the word “referendum” being included or referred to in the Rambouillet Agreement. What is more, Ambassador Petritsch testified that when the first letter from Mrs. Albright to the Kosovar Albanian on the issue of a referendum was vetoed, he offered his personal views on the matter. He testified that he knew referenda in the Balkans were a double-edged sword. They led to wars as in the case of Bosnia and Herzegovina. He stated the international community had learned over time that in an ethnically dominated and conditioned society, where ethnicity is so important, as is the case with the Serbs and the Albanians alike, referenda do not make democratic sense.⁵⁵⁹ Yet, Ambassador Petritsch worked with the Kosovar Albanians on the drafting of the statement which they released at the end of the talks, signed by Veton Surroi, which stated: “The Delegation of Kosova understands and this will be confirmed again upon signature, that at the end of the interim period of three years, Kosova will hold a referendum to ascertain the will of the people as provided in Article 1(3) of Chapter 8 of the agreement”.⁵⁶⁰ What could have been interpreted publicly as a unilateral declaration by the Kosovar Albanians, was in fact a statement drafted with the assistance of two members of the Negotiating Troika and

⁵⁵⁸ P2659.

⁵⁵⁹ Tr.10741-10742.

⁵⁶⁰ 1D18,pg.468,Doc 34. Tr.10906-10907.

supported by a secret side-letter which had been accepted by US Secretary of State Albright.

214. In addition, during his testimony, Ambassador Petritsch commented on the Co-chairman's conclusions issued at the close of the Rambouillet talks on 23 February.⁵⁶¹ In reference to paragraph 4 of these conclusions, Ambassador Petritsch stated that it reflected that there was an understanding that the political constitutional framework was basically agreed. Ambassador Petritsch knew this to be incorrect. He knew that only the state delegation was in basic agreement with this part of the agreement. He knew that the Albanian delegation had rejected it when they made their objections on 18 February and when they informed the Contact Group foreign ministers that it was unacceptable on 20 February. He knew that Mrs. Albright had given secret assurances about holding a referendum in KiM on independence within three year's time, and he had not informed the state delegation, the international community or the public of its existence. Ambassador Petritsch further testified in relation to these conclusions that it was clear that they had finished negotiating the political constitutional framework.⁵⁶² He knew not only that the Kosovar Albanian delegation rejected the agreement, but that the state delegation had raised legitimate matters which needed to be discussed and elaborated to bring the Rambouillet agreement in line with the federal constitutional and legislative framework in the FRY.⁵⁶³ Finally, in relation to these conclusions, Ambassador Petritsch testified that they were conclusions of the Contact Group. This is not correct. They are the conclusions of the co-chairs, Mr. Védérine and Mr. Cook. The distinction is important because the Contact Group includes EU countries Italy and Germany and these conclusions make reference to the implementation provisions of the Rambouillet agreement, which an important member of the Contact Group, the Russian Federation had not accepted.

215. At the conclusion of the Rambouillet talks, Mr. Milutinović spoke at a press conference. He gave a frank and direct assessment of the shortcomings of the Rambouillet talks and his hope for improvements and continued progress towards a final

⁵⁶¹ 1D676, Annex 10.

⁵⁶² Tr.10757.

⁵⁶³ Tr.10933-10934.

agreement. He pointed out that the preparation and method of work at the conference were not satisfactory. He stated that throughout the conference they had stressed that the approach and the method of work must be changed in order to find a concrete concept of autonomy which would be applicable in life and acceptable and comprehensible to all ethnic communities and all citizens in KiM. He indicated that for this reason they had been proposing, in the last few days, this method of work be changed or, if possible, that a break be taken and a new approach and concept defined, with talks to continue on 15 March. He emphasized that they had always been saying that a main political solution should come first and be followed by the implementation of that solution. He added that they regretted the fact that they had not finished the job and that it is not easy to resolve a very complex problem in a multiethnic community. He concluded his remarks by stating that they are all in favour of a peaceful solution and of a truly extended autonomy and the resolution of the problems in KiM.⁵⁶⁴

216. One final matter concerning the Rambouillet talks is the evidence of Ambassador Petritsch that Mr. Milutinović stated: "bombing Serbia will lead to massacres".⁵⁶⁵ To the contrary, the fact of the matter is that Mr. Milutinović never uttered these words to Ambassador Petritsch or anyone else. When he testified, Ambassador Petritsch stated that he had no recollection of meeting with Ambassador Mayorsky and Mr. Milutinović during which Mr. Milutinović said that bombing Serbia will lead to massacres. He stated that he had rationalized that the meeting took place and that his basis for saying that Mr. Milutinović uttered these words was a diplomatic dispatch, sent to his foreign ministry in Vienna at 06.00 on 20 February 1999.⁵⁶⁶ He testified that he saw this diplomatic dispatch for the first time just prior to giving evidence in this case, some eight years after Rambouillet.⁵⁶⁷ He did not draft this dispatch. It was prepared by his assistant Jan Kickert, just before it was sent to Vienna via Belgrade.⁵⁶⁸ Ambassador Petritsch explained that these dispatches were written *ad hoc*, during a very turbulent time, immediately after the event.⁵⁶⁹ Jan Kickert testified that from time to time these

⁵⁶⁴ 1D586.

⁵⁶⁵ Tr.10727.

⁵⁶⁶ Tr.10885. P562.

⁵⁶⁷ Tr.10882.

⁵⁶⁸ Tr.10883-10885.

⁵⁶⁹ Tr.10885.

dispatches had to be prepared quickly and that is when mistakes in the text would occur.⁵⁷⁰ For example, a diplomatic dispatch sent on 30 September 1998, contains an error in relation to a name, which was a mistake made by either Ambassador Petritsch or Mr. Kickert.⁵⁷¹ The events immediately prior to the preparation of this diplomatic dispatch at 06.00 on 20 February 1999 were described by Mr. Kickert as hectic, highly charged, and intense.⁵⁷² On the night between 19 and 20 February, Professor Marković, Professor Kutlešić, Ambassador Petritsch, and US representatives Jim O'Brien and John Levitsky, worked from 19:00 until 05:00 drafting the text of agreement prior to the deadline of 20 February.⁵⁷³ In addition, Ambassadors Petritsch and Hill met with the Kosovar Albanian delegation in the early-morning hours.⁵⁷⁴ They were up all night working in preparation for the meeting with the Contact Group foreign minister on 20 February.

217. Of even greater significance than the admission by Ambassador Petritsch that he rationalized his testimony on the basis of this diplomatic dispatch is the fact that Ambassador Petritsch gave an interview to the Prosecutor and testified in the *Milošević* trial and he attributed the statement of bombing leading to massacres to another person, never to Mr. Milutinović. Ambassador Petritsch was interviewed by the Prosecutor on 14 May and 9 June 1999.⁵⁷⁵ He testified that he used his best efforts to give a detailed and accurate account of events and individuals, as he remembered them.⁵⁷⁶ He gave this account of an exchange he had with Vladimir Štambuk, during the Rambouillet meetings:

Vladimir ŠTAMBUK, the representative from the Yugoslav Party of the Left (*Jugoslavenska udružena levica - JUL*), was well-educated but the most unsavory of the group. At one point, he and I were discussing various alternatives to the Kosovo conflict and he said to me,

"If NATO bombs fall, there will be a massacre in Kosovo."

He did not qualify this statement but my first and distinct impression was to interpret that as a direct threat against the Albanians. He was not referring to the fact that NATO bombs would lead to large-scale deaths in Kosovo; rather, he meant that a NATO attack would result in the massacre of the Albanian population by Serbian forces. He stated this as if it were an unequivocal fact. I was quite taken aback by this statement and it made a distinct impact on me.⁵⁷⁷

⁵⁷⁰ Tr.11241.

⁵⁷¹ Tr.10800.

⁵⁷² Tr.11257.

⁵⁷³ Tr.13208,13213-13214,13619-13620; Tr.11257.

⁵⁷⁴ Tr.11257.

⁵⁷⁵ P2792.

⁵⁷⁶ Tr.10875.

⁵⁷⁷ P2792,pg.3.

Ambassador Petritsch did not know Vladimir Štambuk before Rambouillet.⁵⁷⁸ Ambassador Petritsch agreed that the statement by Mr. Štambuk made such an impression on him that it was bolded, partially underlined, and centred in the text of his interview with the Prosecutor to emphasize how much he was taken aback with it. Nowhere in his interview with the Prosecutor did Ambassador Petritsch say that Mr. Milutinović utter these words.⁵⁷⁹ Nowhere in this interview does Ambassador Petritsch state that he ever spoke to Mr. Milutinović at Rambouillet.

218. This interview with the Prosecutor took place approximately three months after Rambouillet, in the middle of the NATO bombing campaign. Ambassador Petritsch knew Mr. Milutinović and he was asked specifically about Mr. Milutinović by investigators. Jan Kickert was present during Ambassador's Petritsch's interview with the Prosecutor on 14 May 1999. At no point, did Mr. Kickert say anything to Ambassador Petritsch about Mr. Milutinović or remind him to mention that Mr. Milutinović had said something about bombing and massacres.⁵⁸⁰ That both of them would forget such a piece of important information, if in fact Mr. Milutinović had said it, is highly unlikely.

219. Ambassador Petritsch testified in the *Milošević* trial and he gave an account of his encounter with Mr. Štambuk:

Q. And what, if anything, can you share with the Court about the negotiations as expressed by Mr. Štambuk?

A. Well, I had several -- of course, we had many, many - how should I say? - one-on-one meetings, informal meetings in the couloirs, at dinner or breakfast or wherever in Rambouillet, and on one occasion Vladimir Štambuk -- and we were discussing -- and he is a member of JUL. And when we were talking about -- when I was referring to the necessity to ensure the implementation of this agreement and for this we need, in order to demilitarise the KLA, international military presence, and if this is not granted then we will reach the end of our negotiations. And then Mr. Štambuk basically said well -- that if there is bombing of -- then it will -- this will mean a massacre in Kosovo. And of course it was -- I was quite impressed, to say the least, by this. It was very clear to me that he was referring to a massacre on the part of the Yugoslav army or MUP on the

⁵⁷⁸ Tr.10876.

⁵⁷⁹ Tr.10875.

⁵⁸⁰ Tr.10884.

Kosovo Albanians. We did not -- I -- since I was taken aback very much and shocked in a way, I did not further elaborate, but it left in me the distinct impression that there was a clear view, at least with Mr. Štambuk, what would happen if there would be a war or bombing happening in Kosovo.⁵⁸¹

Nowhere in his testimony in the *Milošević* trial does Ambassador Petritsch say that Mr. Milutinović stated that bombing Serbia would lead to massacres.⁵⁸² Nowhere in this testimony does Ambassador Petritsch state that he ever spoke to Mr. Milutinović at Rambouillet.

220. In these proceedings, Ambassador Petritsch testified that both Mr. Štambuk and Mr. Milutinović stated that bombing Serbia would lead to massacres. He gave this account in relation to Mr. Milutinović:

Q. Firstly, "bombing Serbia would lead to massacres," who said that at this meeting?
 A. That was said by Mr. Milutinović.
 Q. In the context of the discussion that you -- well, firstly, what language were you speaking at that time?
 A. We were speaking English. Mr. Milutinović speaks excellent English.
 Q. And in the context of the discussions you were having at the time, what did you understand him to mean?
 A. Well, it was very clear we were talking about the military component of the peace accords, and it was clear that if -- unless we are successful, there is going to be the NATO activation order, and we, the negotiators, will be out of the game. So it was -- it became very, very clear at the time that either we reach a peaceful agreement with -- set out in the proposal, including a military component, in order to, as I already said, secure a safe and secure environment in Kosovo for all its people there; and secondly, to be able to demilitarise the KLA, which was part of the agreement. And unless we succeed, there is going to be another main actor there, which is NATO, clearly. In response to this, then Mr. Milutinović, President Milutinović at the time, said that that would definitely lead to massacres, meaning on Albanians in Kosovo. That was my understanding, I should add.⁵⁸³

It is clear that Ambassador Petritsch has simply transposed his encounter with Mr. Štambuk to Mr. Milutinović and convinced himself -- after seeing a diplomatic dispatch eight years after the fact -- that there must have been a meeting with Mr. Štambuk and a meeting with Mr. Milutinović, where they both, on different occasions, said that bombing would result in massacres.

⁵⁸¹ P2793, pgs. 7232-7233; Tr. 10877-10878.

⁵⁸² Tr. 10878.

⁵⁸³ Tr. 10727-10728.

221. Based on his interview with the Prosecutor and his testimony in *Milošević*, Ambassador Petritsch never spoke to Mr. Milutinović at Rambouillet. A comparison of the testimony given by Ambassador Petritsch in these two trials demonstrates that he has made this transposition to Mr. Milutinović. As can be seen from the above-note excerpts from the *Milošević* trial and these proceedings, the account given by Ambassador Petritsch of what he claims are two different meetings are in fact the one and only encounter he had was with Mr. Štambuk. He testified that there was a discussion about the necessity of implementation, demilitarization of the KLA, otherwise negotiations will end, and then the declaration about bombing and massacres. Given the circumstances surrounding the creation of the diplomatic dispatch, Ambassador Petritsch has quite simply convinced himself and rationalized that this encounter with Mr. Milutinović on the basis of an unreliable document. In fact, Mr. Milutinović never uttered these words. Furthermore, Mr. Milutinović never advocated war as a solution to the problems in KiM. There was never any mention or complaints about Mr. Milutinović making threats of any sort against anyone at Rambouillet or anywhere else, at any time.⁵⁸⁴

222. As noted above, when the Kosovar Albanian delegation rejected the Rambouillet agreement during the meeting with the Contact Group foreign ministers on 20 February 1999, Italian foreign minister, Lamberto Dini observed that the strategy the Americans had developed was disintegrating.⁵⁸⁵ The American strategy was clearly stated by Madeleine Albright: "If the Albanians sign and the Serbs do not, NATO will bomb Serbia". Rejection by the state delegation of the Rambouillet agreement would mean that they were to blame for the failure of the talks and therefore NATO would bomb Serbia. By this time, the Americans and the KLA had a well established relationship. As early as the spring of 1999, Ambassador Holbrooke and Ambassador Hill were brought to a house in Junik to meet a KLA leader.⁵⁸⁶ There had long been contacts between the KLA and US military attachés and the KLA political wing outside the FRY had contacts with the US State Department representative for south-east Europe, Larry Rossin.⁵⁸⁷

⁵⁸⁴ Tr.13225-13227.

⁵⁸⁵ 1D205, Annex 9.

⁵⁸⁶ Tr.6207-6208, 6852, 9919-9921, 11203, 11245, 14434, 14468-14471; Tr.14400.

⁵⁸⁷ 5D121. Tr.11246-11249.

Furthermore, members of the KVM, mostly individuals from the US team, provided logistical support to the KLA which assisted terrorist groups involved in fighting with the VJ and the MUP.⁵⁸⁸ KVM verifiers also requested KLA leaders to use certain code names and numerical codes for logistic locations of KLA groups in their internal communications and contacts with verifiers.⁵⁸⁹ British military attaché, John Crosland testified that the international community supported the KLA. Bill Clinton, Richard Holbrooke and Madeleine Albright had decided that there was going to be a regime change in Serbia and the KLA was one of the tools to make this happen. From that point on, whatever reservations Mr. Crosland or others may have had against the KLA was not relevant. The position the international community took at Rambouillet in 1999 was consistent with that policy.⁵⁹⁰

223. At Rambouillet, the Americans thought that both delegations would accept the political components of the Rambouillet agreement which had been tabled by 20 February. Then, at the 11th hour, the implementation chapters (Chapters 2, 5 and 7) would be imposed on the FRY, since the Kosovar Albanian delegation did not represent any international entity which could enter into an agreement with a NATO led force on the territory of the FRY. These implementation chapters were produced by NATO. The Russian Federation was not consulted or involved in their preparation and they were opposed to Chapters 2 and 7 when they were tabled at Rambouillet. Ultimately, the Russian Federation's representative, Ambassador Mayorsky did not sign the Rambouillet document in Paris in March.⁵⁹¹ In this way, the Americans could use either the Contact Group or NATO to achieve its ends. An agreement would either be reached at Rambouillet/Paris process through the Contact Group – including Russia – otherwise they would use NATO – which did not require the approval of Russia – to achieve their objective.

224. However, on 20 February, at the meetings with the Contact Group foreign ministers, the state delegation agreed with the political components of the Rambouillet

⁵⁸⁸ 3D1048,para.2.7; Tr.15243-15244;26733-26734.

⁵⁸⁹ 3D1053. Tr.15247.

⁵⁹⁰ Tr.9866.

⁵⁹¹ P2588,para.40; Tr.14065.

agreement and the Kosovar Albanians rejected them. In the following days, American attempts to persuade the Kosovar Albanians to accept the political framework by agreeing that the government in Tirana would play an active role, by holding individual talks with representatives of the KLA, and by warning that various measures would be taken, even a U.S. statement, to put the KLA on the list of terrorist organisations would not sway them.⁵⁹² It was then that the secret side letter between Mrs. Albright and the Kosovar Albanians was used late on the last day of the Rambouillet talks to secure support for the agreement. The Americans were able to circumvent the opposition among the other members of the Contact Group and the EU on the issue of a veto on independence in KiM and to side step Russian opposition to Chapters 2 and 7, by pursuing their objectives through NATO. This manoeuvre allowed the Americans to achieve their strategy of casting public blame on the Serbs, as the culprits who caused the process to fail.

225. The strategy of blaming the Serbs for failing to reach agreement continued in March in Paris. This again is the contention advanced by the Prosecutor: the state delegation refused to continue talks in Paris in mid-March and that Mr. Milutinović took over and prevented talks from succeeding. This is completely untrue. Mr. Marković testified that Mr. Milutinović never tried to obstruct negotiations in Rambouillet or in Paris. His contribution to the process was quite the opposite. Every statement he made supported the work of the state delegation and underlined the fact that they were prepared to work towards an agreement for the peaceful and lasting resolution to the problems in KiM.⁵⁹³

226. The testimony from Ambassador Petritsch that Mr. Milutinović made a statement 5 March 1999 that shows a total change of attitude in regard to Rambouillet and the Rambouillet process is quite simply incorrect.⁵⁹⁴ That day, the state delegation and Mr. Milutinović met in Belgrade. Ratko Marković was present and chaired the meeting, as head of the delegation and he testified that following the meeting, an announcement, expressing the joint position of the state delegation and Mr. Milutinović was made. The

⁵⁹² P2660,pg.2.

⁵⁹³ Tr.13224-13225.

⁵⁹⁴ Tr.10758.

statement provided: "We are prepared to commence negotiations in Paris and Belgrade and Priština, anywhere where a political solution can be found. We ascribe absolute priority to that. In any place and around any table and in every meeting, we are committed to a peaceful solution for a broad autonomy within Serbia and Yugoslavia to equality of all ethnic communities."⁵⁹⁵

227. The same day, Mr. Milutinović and Mr. Marković, co-signed letters to each of the foreign ministers of the Contact Group.⁵⁹⁶ These letters lodge a complaint that a campaign that has been set in motion to have the Kosovar Albanian delegation sign the Rambouillet agreement prior to the resumption of talks on 15 March 1999 and to impose the agreement as a *fait accompli*. In particular, these letters highlight the fact that the text of the agreement had not been adopted at Rambouillet and that it was far from ready for signature, the implementation Annexes (Chapters 2 and 7) had not been discussed or approved by the Contact Group or discussed at Rambouillet, and the letter sent to the Contact Group by the state delegation at the conclusion of the conference on 23 February clearly stated their position for the resumption of talks and further work on the agreement. These letters make an appeal to the members of the Contact Group to create appropriate conditions for the continuation of the talks, free from any partiality, pressure, threats of using force, prejudging. Finally, these letters express the undertaking that the Republic of Serbia and the FRY are ready to make a sincere and constructive contribution.

228. On the first day of the Paris meetings, Mr. Milutinović made a public declaration.⁵⁹⁷ He stated that the state delegation was prepared to accept the political part of the agreement based on certain proposals they had made which did not change the essence of the agreement, but which were essential to it and an improvement to it. On 23 February 1999, at the conclusion of the talks at Rambouillet, the state delegation had identified certain elements in the agreement which needed further elaboration, and which Ambassador Petritsch agreed, were legitimate points, which required re-visiting: the term "constitution", decision-making in the Assembly, President of KiM, judicial systems,

⁵⁹⁵ Tr.13220.

⁵⁹⁶ 1D753, Tr.13218. 1D99,1D591,1D592,1D593,1D594,1D595,Annex 11.

⁵⁹⁷ Tr.13222. 1D587.

constitutional court, property, etc.⁵⁹⁸ The agreement submitted to the Negotiating Troika on 15 March 1999, addressed these outstanding issues.⁵⁹⁹ Mr. Milutinović's statement also emphasized that they were prepared to achieve first an agreement on the political and constitutional aspects and then discuss the scope and character of the implementation of the agreement.

229. Since the end of the Rambouillet talks, the state delegation had made calls to improve work conditions and adopt a different approach to the talks when they resumed in Paris.⁶⁰⁰ On 17 March, the state delegation renewed its request to the Negotiating Troika to organize a joint meeting with the Kosovar Albanian delegation, to become acquainted with any proposals that delegation had on the proposed agreement, in the light of various news reports to the effect that they had signed the agreement.⁶⁰¹ No joint meeting was ever organised.

230. The state delegation lodged two protest letters with the co-chairs with the arrival of a delegation from the Republic of Albania, headed by the foreign minister, which held a meeting with the Kosovar Albanian delegation at their hotel.⁶⁰² As Ambassador Petritsch acknowledged, it was a notorious fact that the Republic of Albania supported the KLA and allowed them to have bases on its territory for recruiting, training and arming.⁶⁰³ The co-chairs simply replied that the Albanian foreign minister had made no request to visit the Kléber Centre or to take part in negotiations and there was no bar to access to the hotel where the Kosovar Albanian delegation was lodged.⁶⁰⁴ The co-chairs seemed to not take any notice or care about the sponsorship the Republic of Albania provided to the KLA.

231. Furthermore, on 17 March, the delegation wrote to the co-chairs requesting a work plan, agenda or rules of procedure and to be advised of work schedule for that

⁵⁹⁸ 1D18,pg.467,Doc 31. Tr.10747,10933-10934.

⁵⁹⁹ 2D384,Annex 25;Tr.14188-14191.

⁶⁰⁰ 1D18,pg.467,Doc 33. Tr.10748; (1D582, Tr.13208-13209,13562-13564).

⁶⁰¹ 1D110.

⁶⁰² 1D596;1D677.

⁶⁰³ Tr.10805.

⁶⁰⁴ 1D678.

day.⁶⁰⁵ As Mr. Marković explained things unfolded in a random way, without any sort of plan. One did not know when things would happen or the form anything would take. The state delegation wanted to have an agenda, to know how to submit written proposals, etc., all the matters that generally need to be done at any conference.⁶⁰⁶ The co-chairs simply wrote back to the delegation to say that the negotiator's experts will be available at 15:30 for a meeting that should focus on Chapter 5, as one of the necessary elements for implementation of the Rambouillet accords.⁶⁰⁷

232. On 18 March, the representatives of the national communities living in KiM, who were members of the state delegation sent a letter to the Co-chairs.⁶⁰⁸ They informed the Co-chairs of their meeting with the Negotiating Troika during which they expressed their comments and concerns about the text of the Rambouillet agreement, which did not in their view provide sufficient guarantees and protections to the national communities. With reference to the statement by the Contact Group on 29 January 1999, concerning legitimate rights of all other communities in KiM – aside from the Albanian community⁶⁰⁹ - they request that the agreement include provisions which will allow them to remain in KiM and to live and work in peace. They requested that Contact Group to consider their views and proposals in good faith, which stand for and defend equality, common life in peace, in a multi-ethnic and multi-confessional KiM.

233. All requests and suggestions made by the state delegation were either ignored or summarily dealt with and essentially disregarded by the organisers of the Paris meetings. Ambassador Petritsch testified that “for practical reasons” they needed to finalize the implementation components of the Rambouillet agreement in the three days scheduled for the talks in Paris, before finalizing the outstanding matters concerning the political framework of the agreement.⁶¹⁰ He and the other participants at Paris knew that the Albanians did not accept the political framework of the agreement, which recognized the sovereignty and territorial integrity of the FRY. In particular, Ambassador Petritsch and

⁶⁰⁵ 1D111.

⁶⁰⁶ Tr.13224.

⁶⁰⁷ 1D112.

⁶⁰⁸ 1D114, Annex 16.

⁶⁰⁹ P979.

⁶¹⁰ Tr.10935.

the Americans – at least – knew that the secret side-letter between the Kosovar Albanians and Mrs. Albright was antithetical to the Non-Negotiable Principles and assurances made by the Co-chairs to the state delegation that the territorial integrity of the FRY was protected and guaranteed, and that it had never been made public or disclosed to the Serbs. In regards to the political elements, the Contact Group knew that the state delegation was in general agreement but that important details needed to be finalized in order to bring the terms of the Rambouillet agreement in line with the constitutional and legal orders of the FRY and the Republic of Serbia and that quite logically this needed to be done before discussing implementation. In regards to implementation, the Contact Group knew that the state delegation was prepared to discuss the scope and character of implementation. This was repeated and made clear at the conclusion of the talks at Rambouillet, and in statements made by Mr. Milutinović. Indeed, as Ambassador Petritsch stated, Branko Branković, a diplomatic advisor to the state delegation told him: “We understand this does not work without the military component, we need more time. You cannot rush us into an agreement”.⁶¹¹

234. In the end, only the Kosovar Albanian delegation, Ambassador Hill, and Ambassador Petritsch signed the Rambouillet text in Paris on 18 March 1999. Ambassador Mayorsky and the state delegation refused to sign it.⁶¹² The apparent unilateral signing by a non-entity under public international law, the Kosovar Albanian delegation was nothing more than an agreement entered into with the Americans to begin the bombing of the FRY. The Kosovar Albanian delegation had no international standing or legitimacy and its members espoused the secession of KiM from the FRY and the unification of the Albanian people in a “Greater Albania” across Albanian, KiM and Macedonia. The most powerful and influential members of the Kosovar delegation were the leaders of the KLA, who were determined to achieve this goal through armed insurrection, violence and destruction. Their principle accomplice was US Secretary of State Albright who had vowed to activate NATO if the Albanians signed and the Serbs

⁶¹¹ Tr.10753.

⁶¹² P2588,para.40; Tr.14065.

did not. As Ambassador Petritsch put it: the Americans “took over” and wanted to be the “winners”.⁶¹³

235. Adnan Merovci, assistant to Mr. Rugova and head of the technical secretariat of the Kosovar Albanian delegation at Rambouillet and Paris testified that before the delegation left Paris, Hubert Védrine and Robin Cook told them that the bombing of the FRY by NATO would begin soon. Several members of the delegation travelled to Brussels and met with General Clark who confirmed to them that the bombing would start soon.⁶¹⁴

236. In addition, the Prosecutor alleges that following the Rambouillet/Paris process, Mr. Milutinović attended a session of the National Assembly of the Republic of Serbia on 23 March 1999, where he made a speech to deliberately mislead the deputies about events in Rambouillet and Paris in order to persuade them to reject the Rambouillet agreement. These allegations are entirely false and incorrect.

237. On 23 March 1999, at the first session of the first regular sitting of the National Assembly of the Republic of Serbia, at the request of the Government of the Republic of Serbia, as a matter of urgency, the National Assembly, considered the *Report of the State Delegation on the Talks in Rambouillet and Paris*.⁶¹⁵ The session lasted from 10:05 until 19:15. Just over two hundred deputies were present in the National Assembly, along with others who were invited to attend: Mr. Milutinović, Milomir Minić, President of the Chamber of Citizens of the Assembly of the Federal Republic of Yugoslavia, Mirko Marjanović, Prime Minister of the Republic of Serbia, Ratko Marković, Deputy Prime Minister of the Republic of Serbia and head of the state delegation which took part in the talks in Rambouillet and Paris, members of the state delegation who took part in the talks in Rambouillet and Paris, deputy prime ministers, ministers and the secretary of the Government of the Republic of Serbia, and the secretary of the Republic's Secretariat for

⁶¹³ Tr.10753.

⁶¹⁴ P2588, para.41.

⁶¹⁵ 1D32, pgs.2-4. The vote on proceeding as a matter of urgency was 194 in favour, 0 against, 2 abstentions, 9 did not vote.

Legislature.⁶¹⁶ Members of the National Assembly were all provided with the *Report of the State Delegation on the Talks in Rambouillet and Paris*, the Agreement on Self-Government in Kosovo and Metohija, signed by the members of the delegation of the Government of the Republic of Serbia⁶¹⁷, and the final text of the Rambouillet agreement, which was signed by the Kosovar Albanian delegation.⁶¹⁸ Mr. Marković spoke first, and he submitted a report on behalf of the members of the state delegation. Twenty-six other individuals participated in the debate which followed the opening address and report by Mr. Marković, including representatives of all political parties in the National Assembly and members of the state delegation, as well as Mr. Milutinović, who spoke twelfth.⁶¹⁹

238. Mr. Marković's address to the National Assembly is entirely consistent with the evidence in this case in relation to the approach and commitment of the state delegation to find a viable political and peaceful solution to the problems in KiM, the tactics used by some members of the Contact Group in collaboration with the Kosovar Albanian delegation to place the state delegation in an impossible situation concerning the entire process and to misrepresent that they were to blame for not achieving an agreement. He reviewed all the serious and constructive steps taken by the state delegation and Mr. Milutinović at Rambouillet, in the period between Rambouillet and Paris, and during the final three days in Paris. Mr. Marković explained the approach of the state delegation and these events in these terms:

Our delegation had gone to France to establish substantial autonomy and defend the multi-ethnic composition of the population in Kosovo and Metohija, with the mandate that the National Assembly had granted it in its conclusions. Its fundamental idea was equality of ethnic communities, which is the key and the pivotal fact for the resolution of all problems in Kosovo and Metohija. The Rambouillet meeting was chaotic and extremely informal, it took the form of negotiations between our delegation and the American team led by Ambassador Hill on the one hand, and as an attempt of the very same team to find solutions that would cajole the separatist delegation of the Kosovo and Metohija Albanians to sign the agreement on the other.

Hence there were no rules on how the meeting should be organized; hence direct talks between the two delegations were not enabled. The entire purpose of the meeting was how to cajole the parties of the Albanian separatist and terrorist movement to sign the agreement in order to bring pressure to bear on Serbia later, which was explicitly voiced

⁶¹⁶ Ibid.,pg.3.

⁶¹⁷ Annex 25,2D384. Tr.14188-14191.

⁶¹⁸ 1D32,pg.12.

⁶¹⁹ Annex 29.

by one of the co-chairmen, French Minister of Foreign Affairs Hubert Vedrine, that now "Serbs should be pinned to the wall".

At the continuation of the meeting in Paris the draft agreement was declared a final agreement. It was declared that all essential issues were closed and that only technical adjustments were possible.

Our essential objection that the agreement separated state sovereignty from territorial integrity of Serbia and Yugoslavia, that the first part of this principle was annulled while the second one was only declaratively affirmed, was rejected with the explanation that this position of ours "violates the key elements of the non-existent Rambouillet accords."⁶²⁰

Mr. Marković concluded his remarks to the National Assembly with these words:

Essentially, neither the delegation of Kosovo and Metohija Albanians nor the American negotiators wanted these negotiations. The "Albanians" were present in France only in body, they were represented there by the Americans who understood the negotiations as their diktat. This was helped by the conduct of some members of the Contact Group which was partisan, biased and contradictory. In the end the Contact Group came to an absurd situation to pressurize our delegation to accept the agreement which the group itself had not previously adopted. Instead of negotiation, threats and force were the main instruments of imposing the agreement.

Our delegation had a constructive approach to the meetings in France and was united in its positions. It believed that it was necessary first to build a skeleton of substantial autonomy in Kosovo and Metohija which would rest upon the principles of the Contact Group and then proceed by legally building institutions of substantial autonomy which would be in harmony with these principles. It agreed to negotiate with the mediation of the Troika about one internal issue, but it could not give up the principle and the practical realization of sovereignty and territorial integrity of its country. Therefore it was against the position that substantial autonomy exists in Kosovo and Metohija if Serbia does not exist there, the same as it was against foreign troops as it believed that there was no need to use force to implement what was agreed, and even if it was necessary, then the state had such force at its disposal, not some foreign troops.

In particular, our delegation believed that there could be no agreement if signatories did not negotiate directly and that negotiations had to be conducted in line with civilized rules, not in a primitive brigand-like fashion. The meetings in France were a negation of negotiations and an affirmation of one sided diktat. They represented manipulation of facts and a swindle of the international public opinion.

Despite such experiences, our delegation displayed readiness of our country to see the political process of genuine negotiation established and to find a political solution for Kosovo and Metohija. Every political solution is better than military solution. War cannot lead to a real solution and therefore our delegation expressed readiness to find a

⁶²⁰ 1D32,pgs.10-11.

solution only by political means, in line with a clearly-defined procedure for finding a solution on the basis of authentic elements of substantial self-government.⁶²¹

239. A perusal of the Minutes of this session of the National Assembly, shows that speaker after speaker, from the entire political spectrum, including representatives from KiM and Vojvodina, endorsed the work and efforts made by the state delegation to achieve a fair and comprehensive agreement on self-governance in KiM. They supported the stance taken in regards to the issue of the sovereignty and territorial integrity of the country. They criticized unreservedly the pressure, blackmail, and constant threat of NATO bombing, and the open support from important members of the international community for the separatist and terrorist segments of the Albanian population in KiM, operating under the banner of the KLA. For example, Mr. Žarko Jokanović, Chairman of the Club of Deputies of the opposition party "New Democracy" stated:

New Democracy resolutely opposes the pressures and military threats against our country because the only good solution is a solution which is achieved in a peaceful way, through political compromise, with the full cooperation with the international community.

We resolutely condemn the threats to bomb our country and we stress that defence is not just a legitimate but also a logical right in the event of aggression and in that sense the New Democrats will honourably and responsibly meet their patriotic obligation.

History teaches us that at this difficult historical moment for our people and state the question is not whether we will keep Kosovo and Metohija, in that we are all unanimous. The real question is how we do that successfully in the best possible way. We must be wise in protecting our state and national interests and protecting the lives of all our citizens. Our commitment is /word illegible/ broad autonomy with the full protection of the territorial integrity and sovereignty of Serbia and Yugoslavia.

We therefore propose that we do not allow the realisation of the incipient scenario to punish Serbia and the Serbian people by NATO forces on the basis of an artificial humanitarian catastrophe engineered by the Albanian separatists with their mentors after they had provided them with a strategic advantage in the international community by putting their signatures next to those of Ambassadors Hill and Petritsch and the acceptance of this performance by the other members of the Contact Group.⁶²²

As regards the report on the work of the state delegation, which together with the president of the Republic of Serbia, Mr. MILUTINOVIĆ, represented the Republic of Serbia at the recent negotiations in Rambouillet and Paris and the proposed agreement

⁶²¹ 1D32,pgs.11-12.

⁶²² 1D32,pg.19.

which was submitted by our state delegation, New Democracy has no objections whatsoever. New Democracy regrets that our proposed agreement was not accepted by the Contact Group. We are therefore back to the very beginning and we therefore again point out the fact that compromise and agreement with the international community is essential.⁶²³

240. As the twelfth speaker that day, Mr. Milutinović did not mislead deputies or in any way misrepresent what happened in Rambouillet and Paris.⁶²⁴ He stated that the state delegation did as much as it could to reach agreement and that the conscience of the delegation and all of them should be clear because they were exposed to unprecedented pressure. He denounced what occurred in France. He points out that the sovereignty and territorial integrity of the country was threatened by the proposed Chapters 2, 5, and 7 of the Rambouillet agreement and by the announcement by the Kosovar Albanian delegation to hold a referendum in three year's time. Mr. Milutinović tells the deputies that the FRY and Serbia had agreed to grant full autonomy to KiM, within the limits of the federal and republic constitutional framework. He tells them however that they should not be misled or have any false illusions about the process at Rambouillet and Paris or the dilemma the country faced: either acceptance of the agreement, and all its consequences, or NATO bombing.

241. The same day, Mr. Milutinović attended the ninth session of the VSO, where the standpoint unanimously adopted by the VSO on 4 October 1998 was reaffirmed: Yugoslavia is firm in their choice of peace, and ready to solve all outstanding issues in a peaceful manner, but if we should be attacked, we will defend our country by all means.⁶²⁵ Mr. Milutinović observed that politically and diplomatically the state delegation at Rambouillet had done everything to find a peaceful solution to the situation in KiM:

The President of the Republic of Serbia Milan MILUTINOVIĆ especially stressed that our delegation in Rambue (*sic*) did everything it could in order to find a peaceful solution to the problems in Kosovo and Metohija, but that the West had obviously decided to mark NATO 50th anniversary in a spectacular way, and there was every indication that it was ready to perform aggression on our country from the sea and from the air.⁶²⁶

⁶²³ 1D32,pg.20.

⁶²⁴ 1D32,pgs.29-31. Tr.13229-13230.

⁶²⁵ P1577,pg.2. P1575,pg.9;P2831,pgs.33-34.

⁶²⁶ P1577,pgs.1-2.

Both publicly in the National Assembly and at the closed session of the VSO, Mr. Milutinović stated clearly and unequivocally that the state delegation had done everything it could to reach a peaceful solution and that NATO was determined to enter into war.

242. Following the opening address by Mr. Marković, the speaker of the National Assembly, in consultation with the chairmen of the clubs of deputies, established a five member commission, comprising members from the major political parties in the National Assembly, including opposition parties – the Socialist Party of Serbia, the Serbian Radical Party, the Serbian Renewal Movement, and the Yugoslav Left – to draft conclusions concerning this session.⁶²⁷ The commission was tasked with following the course of the debate in the National Assembly and with proposing decisions and conclusions based this debate and the Report of the State Delegation on Talks in Rambouillet and Paris. Deputies of the National Assembly were provided with the decisions and conclusions which were prepared by this commission.⁶²⁸

243. Two decisions were proposed by the commission and adopted by the National Assembly were the following:

In connection with a request to deploy NATO troops in order to implement a political accord on self- government in Kosovo and Metohija which has not yet been reached, agreed upon and coordinated with all ethnic communities living in Kosovo and Metohija and threats to bomb our country and people if that is rejected, the National Assembly of the Republic of Serbia, at a session held on 23 March 1999, has passed the following decision:

1. The National Assembly of the Republic of Serbia does not accept the presence of foreign troops in Kosovo and Metohija.
2. The National Assembly of the Republic of Serbia is ready, immediately after the signing of a political accord on self-government in Kosovo and Metohija which is agreed upon and accepted by representatives of all ethnic communities living in Kosovo and Metohija, to consider the volume and character of international presence in Kosovo and Metohija in order to implement the agreement reached in this manner.⁶²⁹

⁶²⁷ 1D32,pg.12. The vote to establish the commission was 205 for, 0 against, 3 abstentions, 10 members did not vote.

⁶²⁸ 1D32,pg.55.

⁶²⁹ Ibid,pg.56.

The vote on the first decision was 191 deputies in favour, 0 against, 0 abstentions, 8 deputies did not vote. The vote on the second decision was 204 deputies in favour, 0 against, 0 abstentions, 1 deputy did not vote.⁶³⁰

244. The conclusions were accepted unanimously by the commission, in consultation with the heads of the deputies' clubs, and proposed to the National Assembly.⁶³¹ In the National Assembly, they were adopted by a vote of 203 in favour, 0 against, 0 abstentions, and 3 deputies did not vote.⁶³² These conclusions *inter alia* condemn threats of aggression by NATO which thwart the process of reaching political agreement and constitutes direct support of separatists and terrorists, they endorse the report and efforts of the state delegation which acted according to the mandate it received from the National Assembly on 4 February 1999, they criticize the approach used by the organizers of the Rambouillet/Paris talks, which used diktat, forgeries, threats, blackmail and NATO troops instead of direct talks and genuine commitment, they state that no blame for failure of the talks can be ascribed to the state delegation, they reiterate that the Republic of Serbia and the FRY continue to be committed to a peaceful political solution of the problem in KiM and they confirm their readiness that the state delegation immediately continue talks directly with the Albanian political parties and of all other national communities and that the state delegation is authorized to sign a political agreement on self-government in KiM which is agreed upon by representatives of all national communities living in KiM.

78 DAYS OF WAR

245. The 78-day NATO air campaign against the FRY started on 24 March 1999 at approximately 20:00 hours.⁶³³ During this period, Mr. Milutinović's daily routine did not change significantly compared to peacetime. At the beginning of the war, the office staff did not leave the Presidency building during air raid alerts. However, at one point, about 10 days into the bombing, NATO's website indicated that the Presidency building was a "legitimate target" for NATO. After that, when the alert siren sounded, Mr.

⁶³⁰ Ibid,pgs.56-57.

⁶³¹ Ibid,pg.58.

⁶³² Ibid,pg.58. 1D33,Annex 12;1D32,pgs.56-58.

⁶³³ Tr.16798.

Milutinović's office staff took their computers and telephone sets and went to a building in the immediate vicinity, where they had set up a makeshift office. After President Milošević's residence was hit by NATO, Mr. Milutinović would often stay in one of his two apartments.⁶³⁴ On occasion, Mr. Milutinović and his wife went to an underground bunker to rest in the evening.⁶³⁵

246. From the first night of the NATO air campaign, civilian targets in the city of Belgrade and the immediate vicinity were hit extremely hard. The whole of the Rakovica industrial complex, including Belgrade's bread factory came under attack during the first wave of NATO airstrikes. As of the beginning of April, civilian facilities came under attack every day. According to information kept by the VJ, about 3.380 civilian targets were hit, which accounted for about 36 per cent of all the air strikes that occurred during NATO's intervention.⁶³⁶ The VJ did not anticipate that NATO would destroy non-military infrastructure and non-military facilities during the war: the bridges on the Danube, the bread production facilities, water-supply plants, thermal electric plants, the oil industry facilities, historical monuments, cultural monuments, etc.⁶³⁷ Highly destructive fire power was used by NATO to destroy large industries.⁶³⁸

247. Jovan Kojić testified that during the war, Mr. Milutinović dealt with civilian matters which required urgent and immediate attention because of the damage caused by NATO air strikes, such as the storage of hazardous materials, supply of food and medicines, lack of electricity. Mr. Milutinović travelled to Vojvodina the day after NATO destroyed the Freedom Bridge across the Danube and bombed the oil refinery in Novi Sad.⁶³⁹ He held meetings with Dragomir Tomić, the deputy prime minister of the Republic of Serbia and Mr. Zivota Čosić, the minister for mining and energy concerning the storage of hazardous materials. He also met several times with Mr. Čosić and Mr.

⁶³⁴ 1D754, para.4.

⁶³⁵ Tr.16580.

⁶³⁶ Tr.15750.

⁶³⁷ Tr.15771-15773.

⁶³⁸ Tr.15776-15777.

⁶³⁹ 1D741, para.43. 3D913, pg.1: In "Vojvodina, on the Hungarian border there were also attacks, there were attacks on bridges and similar facilities, and all of this did not seem to correspond to the principles and the doctrine of NATO". Tr.16822; P604, pgs.38-40, 123-125.

Slobodan Babić, the general manager of the Electrical Power Industry of Serbia (EPS) in relation to the re-establishment of electrical power, during power cuts in May 1999.⁶⁴⁰

248. Mr. Ćosić testified that immediately after the NATO campaign had begun, he was tasked by the Prime Minister of the Republic of Serbia to organise a work group and to relocate hazardous poisonous materials from chemical industrial facilities from eight large sites in Serbia, which could cause disasters of unprecedented proportions, if struck by NATO bombing.⁶⁴¹ Mr. Ćosić was an engineer who had previously worked with hazardous chemicals. The work group consisted consisting of Deputy Prime Minister Tomić, Mr. Ćosić and some colleagues. Mr. Ćosić reported to the Prime Minister on the steps he was taking in dealing with these hazardous materials.⁶⁴²

249. Mr. Ćosić explained that they were not prepared for the war. They had neither the plans nor the know-how for the relocation of hazardous materials from chemical factories or storage facilities. Serbia did not have a single specialized storage facility for such materials, no concrete sarcophagi or any facilities to eliminate such materials.⁶⁴³ Not a single potentially hazardous factory had been relocated or hazardous materials moved at the time the NATO bombing started.⁶⁴⁴

250. These production facilities were located in the vicinity of large and densely populated cities. The destruction and the release of stored substances into the atmosphere would have caused an enormous disaster, endangering the lives of hundreds of thousands of humans and other living creatures as well as causing unprecedented damage to the environment. The Nuclear Institute in Vinca, for instance, which is 15 kilometres away from the centre of Belgrade, housed two functioning and operating nuclear reactors, with 40 year's worth of nuclear waste stored in its warehouses.⁶⁴⁵ Time was of the essence. The substances needed to be transported as quickly as possible but with minimum risk. The complexity and extent of such an undertaking constituted a special problem. They

⁶⁴⁰ 1D741,para.44.

⁶⁴¹ 1D738,para.10.

⁶⁴² Tr.13668.

⁶⁴³ 1D738,para.13, Tr.13664.

⁶⁴⁴ 1D738,para.14.

⁶⁴⁵ 1D738,para.11.

needed to find adequate means of transport, to pour the substances out of the reservoirs in which they were stored in the factories, and to pack them and transport them safely while being bombarded by NATO aircraft.⁶⁴⁶

251. Mr. Ćosić met three to five times with Mr. Milutinović during the war. He noted meetings on 7 April and 24 May in his diary.⁶⁴⁷ Mr. Milutinović was constantly enquiring about the developments in their operation to remove and relocate hazardous materials. The Work Group would send daily reports to the Prime Minister and every two to three days Mr. Ćosić would personally inform Mr. Milutinović by telephone of the preparations for the packing, loading and transport. The Prime Minister authorized that copies of these reports be sent to Mr. Milutinović.⁶⁴⁸ Mr. Milutinović was very seriously concerned about the outcome of this operation of because the enormous human risk factor. Mr. Ćosić formed the impression, based on their contacts and meetings, that Mr. Milutinović dealt with such problems and similar ones most of the time during the NATO bombing campaign.⁶⁴⁹

252. On 7 April 1999, Mr. Milutinović received Deputy Prime Minister Tomić and Mr. Ćosić. Some twenty days after the decision on the removal from Prva Iskra Barič of the fluor hydrochloric acid was adopted, they were having problems finding adequate means to transport it to Prahovo.⁶⁵⁰ They approached Mr. Milutinović for help and advice on this matter. They determined that it would be safest to transport it by rail, in specially prepared tank wagons. However, they discovered that Serbia had only four tank wagons which could sustain the corrosive effect of fluor hydrochloric acid. They were therefore forced to store some of the acid in abandoned railway tunnels in order to protect it against NATO strikes. They also discussed problems they had been encountering in the relocation of hazardous materials from other factories such as the Nuclear Institute in Vinca, Petrohemija in Pancevo, Azotara in Pancevo, Milan Blagojević in Lucani, Krusik in Valjevo, and Sloboda in Čačak, most of which were hit later by NATO.⁶⁵¹

⁶⁴⁶ 1D738,para.12.

⁶⁴⁷ Tr.13695-13696.

⁶⁴⁸ 1D706. Tr.13669-13671.

⁶⁴⁹ 1D738,para.19.

⁶⁵⁰ 1D738,para.20.

⁶⁵¹ 1D738,para.21.

253. Mr. Ćosić also testified in relation to the destruction of the electric power grid and installations which NATO had targeted at the end of April and the beginning of May. NATO used special graphite fibre bombs which short-circuited most of the centres/transformer stations. This rendered the supply of electricity within Serbia impossible, which proved particularly dramatic for the city of Belgrade and other large cities because the sewage and water supply system did not function and there was a serious threat of a large-scale epidemic.⁶⁵² Mr. Milutinović was in regular contact with Deputy Prime Minister Tomić, Mr. Ćosić, Mr. Slobodan Babić from EPS /Serbian Electricity Board/, Mr. Uskokovic from EDB /Belgrade Electricity Board/, Mr. Aleksa Jokić, the Director of PTT /Post, Telegraph and Telephone/ and Mr. Miloš Nešović, the Director of Telekom Srbija, enquiring about the state of the electricity supply and telephone connections.⁶⁵³

254. By mid-May 1999, the situation became alarming - the electricity system was falling apart because most transformer stations and power lines had been taken out by NATO bombing. In the entire territory of Serbia, power-cuts lasted for days. On 24 May 1999, the Director of EPS, Slobodan Babić, and Mr. Ćosić went for a meeting with Mr. Milutinović to explain to him in detail the state of the electricity supply and, in particular, the possible options for the supply of electricity to the public.⁶⁵⁴ They felt the President of the Republic should know what was going on because the electricity shortage meant that there was no running water in homes. Once the power supply was re-established, it would take many hours for the pressure to rise sufficiently in high-rise buildings. Unless this could be solved, sewage back up could have caused widespread epidemics. Together they drew up a list to prioritize the use of the little electricity they had in Belgrade for hospitals to continue operating so that they had enough electricity for urgent operations and surgery; for bakeries to operate; for the schools that remained open to function; for medicine to be manufactured.⁶⁵⁵

⁶⁵² 1D738, paras. 23-24; Tr. 13968-13969, 13979.

⁶⁵³ 1D738, para. 25.

⁶⁵⁴ 1D738, paras. 26-27.

⁶⁵⁵ Tr. 13672-13673; Tr. 13696-13697.

255. In addition to the reports coming from Mr. Ćosić and his colleagues, Mr. Milutinović's office received information from several other sources during the war: the Ministry of Foreign Affairs,⁶⁵⁶ the international and domestic media, reports from the VJ, MUP bulletins, and reports on damage caused by NATO air strikes. Every morning members of his office staff reviewed and summarised this information for Mr. Milutinović. Key sentences on a series of topics were usually quoted to make them as concise and as clear as possible. The objective was to put before Mr. Milutinović all this information from different sources for him to read when he arrived in the office in the morning.⁶⁵⁷ The staff summarized this material on a couple of pages or if certain statements were made concerning Yugoslavia by important international factors, they would quote them.⁶⁵⁸

256. In particular, the Office of the President received reports on damage caused by NATO bombing to roads, bridges, railway bridges, railways, etc.⁶⁵⁹ These reports were similar to reports that the Government received every day on damage caused by NATO air strikes.⁶⁶⁰ MUP daily bulletins contained information within the purview of the Ministry of the Interior. The bulletins were quite general and principally provided statistical data - for instance, the number of fires, cases of white collar crime, traffic accidents, the number of injured or dead, the number of robberies, thefts, murders and other crimes perpetrated; there was no detailed information about the perpetrators, victims or the way in which the crimes had been committed. Daily bulletins from the Belgrade municipal SUP were almost identical to the MUP bulletins, although occasionally they provided greater detail about crimes committed in the city of Belgrade.⁶⁶¹ These wartime reports also contained a detailed list of all the strikes by NATO missiles and bombs.⁶⁶² During the war, his office received Intelligence Department Briefings and Daily Combat Reports from the Staff of the Supreme Command.⁶⁶³ Mr. Milutinović did not receive any reports from military security or any

⁶⁵⁶ 1D741,para.25.

⁶⁵⁷ 1D741,para.45.

⁶⁵⁸ 1D741,para.26; Tr.13727-13728.

⁶⁵⁹ 1D705;1D717;1D741,paras.92-93.

⁶⁶⁰ 1D738,para.38.

⁶⁶¹ 1D741,para.25.

⁶⁶² 1D741,para.45.

⁶⁶³ 1D741,para.25; 1D754,para.6.

military plans, maps or information on military action or on strategic or tactical matters.⁶⁶⁴

257. During the war, Mr. Milutinović attended weekly meetings of the country's leadership.⁶⁶⁵ These meetings were called by President Milošević and held at Beli Dvor. Each meeting lasted less than half an hour because of the danger of NATO air strikes against government buildings and residences. There was no agenda for these meetings. Meetings were sometimes convened on fifteen minutes notice because of the war time circumstances. The Federal Government and the Republican Government had their own separate meetings to deal with matters within their respective areas of competence. Attendees at those meetings included: President Milošević, and other representatives of the federal bodies Federal Prime Minister, Momir Bulatović; Defence Minister Pavle Bulatović; foreign minister Živadin Jovanović, both Presidents of the Chambers of the Federal Assemblies, Mr. Minić the President of the Chamber of Citizens and Srdjan Bozovic on behalf of the Chamber of the Republics, from the republic level, President of the Republic, Mr. Milutinović, the President of the National Assembly of the Republic of Serbia, Dragan Tomić, the Prime Minister, Mirko Marjanović.

258. The meetings were video taped and excerpts were broadcast on the evening news by TV Serbia and photographs were published on the front page of all the daily newspapers. There were two purposes for these meetings. First, there a general briefing about the wartime conditions in the country. Second, the brief summary of these meetings that was publicized in the media was intended to send a message to the people of Serbia that the country's leaders were hard at work defending their country. Serbia had bitter historical experience back on 6 April 1941, when the entire government and Petar II, the King of Yugoslavia fled to Cairo, Egypt when the Second World War began.⁶⁶⁶

259. These meetings had nothing to do with defence-related matters in the sense of command. In general terms, there were discussions about the defence of the country

⁶⁶⁴ 1D741,paras.25,45. 1D741,para.99. In 1998, Mr. Milutinović received an *ad hoc* 2-page document from Gen. Perišić on terrorist activities against the FRY and the VJ, possibly in preparation for a meeting with a foreign guest,P2822.

⁶⁶⁵ Tr.14757-14763;P604,pgs.69,71-72,74-78,86,128-131,133,135.

⁶⁶⁶ Tr.14757-14763;P604,pgs.53-63.

against NATO, and mounting opposition in NATO countries to the bombing of the FRY. There was no discussion about the VJ or the MUP or defence activities in KiM. In particular, there were discussions about the problems facing the country regarding civilian protection, the economy, shelter, the supply of electricity, diplomatic issues, peaceful solutions raised at the United Nations, in American and in Russia, the capture of three US soldiers, etc. On 4 April, they established a group for the reconstruction of the country because of the severe damage to bridges and roads from NATO bombing. In the second half of May there were discussions on a plan for the country's reconstruction. By then, NATO air strikes destroyed about 80 bridges in Serbia. The construction minister Dejan Kovačević and Milutin Mrkonjić came to these meetings and they were in charge of the country's reconstruction especially as far as destroyed infrastructure was concerned.⁶⁶⁷

260. Furthermore, Mr. Milutinović's acts and conduct during the 78-day war must be evaluated in relation to state policy, the information he received from state organs and state officials, and the nature and magnitude of the forces from NATO, the KLA and the Republic of Albania which were waging war against the FRY. State policy was to defend the country, to use all possible efforts to end the war, restore peace throughout the country, and resume the process of solving the problems in KiM politically and peacefully. NATO's intense and relentless 78-day bombing campaign assisted the KLA and forces from the Republic of Albania⁶⁶⁸ fighting against the VJ and the MUP. This NATO war effort was supported by an intense media campaign mounted by news agencies in NATO countries, which demonized the Serbs by distorting information, spreading and spinning wartime propaganda, and engaging in subversive activities to garner support for the war in NATO countries.

261. Immediately after the war began, international media had published inaccurate information that Mr. Rugova had been killed or wounded.⁶⁶⁹ On 1 April 1999, President Milošević met with Ibrahim Rugova.⁶⁷⁰ At the conclusion of the meeting, the two men

⁶⁶⁷ Tr.14757-14763;P604,pgs.53-63.

⁶⁶⁸ 3D741.

⁶⁶⁹ Tr.21986-21987.

⁶⁷⁰ 2D300.

agreed to sign a public joint statement.⁶⁷¹ It provided that it was fully agreed that they were both committed to the political process and that the problems could be successfully and permanently resolved only through political means.⁶⁷²

262. On 6 April, as a result of this meeting, the Federal Government and the Government of the Republic of Serbia issued a joint statement to resume work towards achieving a political agreement for KiM and to work towards the return of refugees who had fled KiM because of the war.⁶⁷³ The joint statement called for a unilateral cease fire by the VJ and the MUP fighting the KLA, over the Easter period, as a gesture of good will and commitment to a peaceful resolution. Immediately following this announcement, NATO launched a massive air campaign, flying 335 air sorties in a 24-hour period.⁶⁷⁴ The intense and wide-spread NATO bombing struck the centre of Priština and a number of civilian targets across KiM. It disrupted the beginnings of dialogue and the return of refugees and without doubt caused many others to flee. At the same time, NATO itself, with the support powerful foreign media, misrepresented the situation in KiM as a humanitarian disaster caused by the Serbs which it used as the justification for the NATO air campaign to continue.

263. Prime Minister Momir Bulatović testified that on 8 April, the Federal Government issued a public statement denouncing the heightened and intensified attacks by NATO following the call for a temporary cease fire.⁶⁷⁵ By his time, the Federal Government had made an appeal to the world for humanitarian assistance in response to the humanitarian crisis which had resulted from the NATO air campaign. Mr. Bulatović said that it was an expression of the sincere commitment of the Federal Government to have all citizens, including Albanians, receive assistance, remain in their hearths and homes, and continue a joint life together.⁶⁷⁶

⁶⁷¹ P2588, para.58; Tr.8450-8451.

⁶⁷² 1D59.

⁶⁷³ Tr.13851-13852; Tr.14068.

⁶⁷⁴ 3D918. Tr.16806; 5D1242.

⁶⁷⁵ 2D303. Tr.Tr.13852-13853.

⁶⁷⁶ 2D299; Tr.13848, 13928-13930.

264. In early April, the Staff of the Supreme Command made a public announcement.⁶⁷⁷ It condemned the NATO air strikes for being widespread and ruthless in their attack against the life and property of all people living in the FRY and particularly in KiM and for the support they provide to the harm caused by the KLA to people of all nations living in KiM. The announcement called on citizens to refuse to fight along side the KLA and to return to their homes, to restore peace, and for all people to live together without hatred and contempt regardless of religion or nation.

265. In a number of sources, including the Intelligence Department Briefings and Daily Combat Reports sent to Mr. Milutinović, there are numerous examples of the use to which NATO used international media from its member countries as a tool of propaganda by misrepresenting events on the ground in order to create public support for the air campaign against the FRY.⁶⁷⁸ It was widely understood both in government and the VJ that the NATO alliance attached particular importance to the psychological impact of reporting that a humanitarian disaster caused by alleged ethnic cleansing of Albanians in KiM justified NATO bombardment.⁶⁷⁹ Western military personnel and political leaders knowingly made inaccurate and unsubstantiated statements to muster support for the air campaign in NATO countries. As early as 3 April, it was known that NATO was using confidential intelligence sources to plant information among the Albanians in the Diaspora that within the next 24 to 48 hours NATO would begin indiscriminate bombing of KiM and that it is preparing to raze KiM to the ground.⁶⁸⁰ In order to deflect growing criticism in Germany of the bombing of the FRY, a brigadier general in the German army falsely made claims that the Serbs had a plan called "operation horseshoe" for the ethnic cleansing of KiM.⁶⁸¹ In mid-April 1999, in an attempt to muster political support for the NATO campaign, British foreign secretary Robin Cook made an unsubstantiated and incorrect statement of the existence of a rape camp in KiM, where Serbs raped Albanian women.⁶⁸² A campaign was mounted to create a story of "ethnic cleansing in Vojvodina"

⁶⁷⁷ 3D753; 3D1120, para.4; Tr.16817-16818.

⁶⁷⁸ 3D808-3D875, para.5 "Security Situation in the Yugoslav Army".

⁶⁷⁹ 3D805, para.5.

⁶⁸⁰ 3D782. Tr.16819-16820.

⁶⁸¹ Tr.1035-1036.

⁶⁸² Tr.888-892.

by urging conscripts of Hungarian origin to avoid call-up into the VJ and escape to refugees camps established in Hungary.⁶⁸³

266. At no time, in any public declaration by a public official or military leader in the country, or any document received by Mr. Milutinović from the authorized and competent organs of the state, the VJ, or the MUP or in any meeting attended by Mr. Milutinović was there any mention of any plan or the implementation of a plan to expel or harm the Kosovar Albanian population in KiM. The very simple explanation for this is that there never existed a plan, agreement, common purpose, strategy to commit any crimes whatsoever against anyone in KiM, including the Kosovar Albanians before or during the war. The information Mr. Milutinović received through his attendance at meetings, daily reports from the MUP and SUP Belgrade, VJ Intelligence Reports and Daily Combat Reports contradicted western media broadcasts about ethnic cleansing by Serbs in KiM. There was no reason for Mr. Milutinović to believe that the competent structures authorized to conduct the war efforts during a state of war were not fully functioning and operational and fulfilling their duties and obligations. Indeed, based on the information he received, he had every reason to think that they were defending the country honourably and legally. This included the wartime military and civil courts and prosecutors which he was informed were fulfilling their obligations to investigate and prosecute criminal complaints.⁶⁸⁴

267. The confidential intelligence information in the hands of the VJ describes a very different situation from the one reported in the international media. On 9 April 1999, at the collegium of the Supreme Command Staff, General Branko Krga, of the Intelligence Administration, stated that the proclaimed aims of the NATO aggression were to first prevent an alleged humanitarian catastrophe, second to neutralise the military power of the FRY and third preserve the credibility of the US and NATO, while the actual aim of the aggression was to punish the FRY and force it to accept the peace agreement which

⁶⁸³ 3D825,pg.6

⁶⁸⁴ 3D810,pg.3, 3D862,pg.5; 3D867;pgs.2,8,12;3D869,pgs.7-8; 3D870,pgs.7-8; 3D871,pgs.6-9; 3D875,pgs.8-9.

would provide for the arrival of NATO forces in Kosovo and Metohija, that is to say, the seizure of territory from the FRY.⁶⁸⁵

268. On 25 April, an Intelligence Department Briefing reported that Kosovar Albanian refugees were being manipulated by the CIA and being sent around in circles on the border between Macedonia and Albania. The Intelligence Department noted that this manipulation of refugees was being used to generate public support in NATO countries to justify the continuation of the NATO bombing. The briefing recommended that the refugees be called on again to return to their homes and reject the "care" that NATO member countries were providing them.⁶⁸⁶

269. On 12 May, an Intelligence Department Briefing reported that the "West is still effectively manipulating the question of refugees. However, if we were to begin to successfully resolve that question, we would trounce their arguments". General Krga testified that two proposals were in place: to find a political solution for the conflict, the return of the refugees, withdrawal of units, and to have the commission for assessing war damage send a request to the United Nations to see the degree of destruction and magnitude of the suffering of the civilian population. He testified that every option and initiative was aimed at finding a peaceful solution for the conflict and ending the war. It aimed to create conditions for the cessation of the air-strikes and to launch political dialogue. The return of the refugees was a fact that the military counted on. No one in the Supreme Command Staff and or elsewhere ever stated or knew of any aim to expel the refugees.⁶⁸⁷

270. On 25 May, an Intelligence Department Briefing reported that refugees were returning and that 4,000 refugees came back through Djeneral Jankovic border crossing with Macedonia in a single day.⁶⁸⁸ The following day, by 1200 hours there were about 400 NATO sorties recorded, including actions by B-52 and B-1B strategic bombers which carried and fired extremely heavy payloads across KiM to support to the KLA in

⁶⁸⁵ P929,pg.5.

⁶⁸⁶ 3D938,paras.8.pg.2, Tr. 16810.

⁶⁸⁷ 3D955; Tr.16813-16814.

⁶⁸⁸ 3D968,pg.2, Item 6; Tr.16813-16814.

executing a breakthrough on the front line.⁶⁸⁹ NATO bombed targets that had already been destroyed to “spread panic and demoralise the population and the VJ”.⁶⁹⁰

271. If it is true that the first casualty of war is the truth, then the observation by Prosecution witness General Drewienkiewicz calling CNN “an American disease” is fitting.⁶⁹¹ The public and unfounded vilification of the Serbs that had begun at Rambouillet and Paris continued and intensified during the war, through the major international media outlets in NATO countries – CNN, BBC, SKY. Contrary to these reports being disseminated by the “enemy”, the Serbs had no desire for war, there was no plan for war, ethnic cleansing, or to modify the “ethnic balance in Kosovo in order to ensure continued Serbian control over the province”. There was no operation “horseshoe”, no Serbian rape camps, no ethnic cleansing of Vojvodina by the Serbs, Ibrahim Rugova had not been murdered, and so on. To the contrary, state policy was to end the fighting, return the refugees to their homes, continue the process of finding a viable and lasting political solution through self-governance in KiM, and protect the sovereignty and territorial integrity of the country. NATO stepped up and intensified its bombing campaign when initiatives for a cease-fire, continued dialogue, and refugee return was proposed by the federal and republican governments on the 11th day of the war, when talks with Russian envoy Chernomyrdin on ending the war took place in late April,⁶⁹² and when refugees in great number attempted to return home in late May.

272. Throughout the war, and as he had always done, Mr. Milutinović fulfilled his duties and his role as the President of the Republic of Serbia. In particular, he used all his efforts to find a means to end the fighting, restore peace, and renew attempts at obtaining an agreement on self-government in KiM to the benefit of all citizens of Serbia. To this end, he met once with Mr. Rugova in Belgrade and once in Pristina. From the beginning of April, State Security was tasked by the Head of State Security with providing protection to Mr. Rugova, his assistant Mr. Merovci, and their families.⁶⁹³ During Mr. Rugova's meeting with President Milošević on 1 April, when they both expressed their

⁶⁸⁹ 3D969,pg.1; Tr.16815-16816.

⁶⁹⁰ 3D968,pg.1, Item 3.

⁶⁹¹ Tr.7922;P2827.

⁶⁹² 3D600, Tr.16812-16813.

⁶⁹³ Tr.22065, Tr.21988-21989, Tr.21991.

commitment to resolving matters in KiM by political means, Mr. Rugova stated that he needed to work with his aides and that he needed to travel abroad to make contact with key people to work on resolving the situation. The phone line was then immediately repaired in Mr. Rugova's house in Priština.⁶⁹⁴ Mr. Merovci called Ambassador Hill in Skopje to inform him of the situation. Mr. Rugova's associates – Blerim Shala, Abdyl Ramaj, and Iljaz Kurteshi – were located and he was asked whether he wanted to meet with them.⁶⁹⁵ On Mr. Merovci's demand, his family and children left KiM and travelled to Skopje, Macedonia at the beginning of April.⁶⁹⁶ State Security made travel arrangements for Mr. Merovci to travel to Skopje between 17-21 April to meet with Mr. Rugova's associates and international representatives, Ambassador Hill, Ambassador Petritsch, Ambassador Huntzinger, William Walker, and Mr. Koch.⁶⁹⁷ In this period, Mr. Rugova gave statements to the press, he held a press conference with Russian Ambassador Kotov, and he met with Russian Patriarch Aleksey.⁶⁹⁸

273. Furthermore, during the month of April, Mr. Rugova met with Mr. Šainović and Mr. Marković, head of the state delegation, and Mr. Milutinović in attempt to stop the war and resume the political process. When they met, Mr. Šainović told Mr. Rugova that everything should be done to stop the air-strikes and the war, that talks on the organization of government in KiM should resume, that all displaced persons and refugees of all ethnicities who had lived in KiM previously should come back. Mr. Šainović also stated that agreements should be made between the authorities in Belgrade, through Mr. Marković, and Mr. Rugova as the legitimate representative of the Albanian people, so that the war should come to an end, and that a peaceful solution should be sought.⁶⁹⁹

274. On 16 April, Mr. Rugova met with Mr. Milutinović and Mr. Šainović in Belgrade.⁷⁰⁰ Mr. Milutinović knew that Mr. Rugova arrived in Belgrade with his

⁶⁹⁴ Tr.8452-8453, 8489.

⁶⁹⁵ P2588 paras.61,66, Tr.8460-8461.

⁶⁹⁶ Tr.8450.

⁶⁹⁷ Tr.8465-8468.

⁶⁹⁸ Tr.21987-21988, P2588, paras.63,69-70.

⁶⁹⁹ Tr.21989-21990; P2588, para.65.

⁷⁰⁰ 1D741, para.47.

assistant, Mr. Merovci, with police protection. They had a pleasant meeting.⁷⁰¹ Mr. Rugova and Mr. Merovci never complained that they came against their will or were under house arrest. Mr. Rugova told Mr. Milutinović that the majority of his party members were in western countries and that he would like to leave the FRY in order to visit to discuss his political future role. Mr. Milutinović agreed that he needed to meet with the membership of his party so that he could remain leader of his party.⁷⁰² Mr. Milutinović knew that Mr. Rugova was in a very difficult position politically. He had spoken out publicly against the violence and the KLA was against him. At Rambouillet, the KLA had pushed him completely into a corner and Hashim Thaci was made head of the Kosovar Albanian delegation. Mr. Milutinović told Mr. Rugova, in a very diplomatic way: "Kosovo is yours. You are a person, a leader, of the citizens of Kosovo and the responsibility lies with you".⁷⁰³ Mr. Rugova indicated that he wanted to go to Macedonia. However, Mr. Milutinović told him it was not safe for him in Macedonia and that he should go elsewhere. Mr. Rugova indicated that he wanted to go to Italy. Mr. Milutinović phoned Italian foreign minister Lamberto Dini. Mr. Dini accepted to have Mr. Rugova come to Italy and the Italians sent a plane for Mr. Rugova and his family.⁷⁰⁴

275. On 28 April, Mr. Milutinović travelled to Priština to meet with Mr. Rugova. On that occasion, he presented Mr. Milutinović with a natural crystal, as symbolic gesture, at the beginning of their meeting at the Provincial Building.⁷⁰⁵ The meeting was also attended by Mr. Merovci, Mr. Šainović, Ratko Marković, and Zoran Andelković, the head of the Temporary Executive Council. During this meeting Mr. Milutinović and Mr. Rugova signed a joint statement which provided that it was necessary to immediately renew and intensify discussions on a political agreement for self-government in KiM, in direct talks, including the participation of all national communities, and representatives of the international community, as guests, and that a newly constituted Provincial Executive Council of KiM would perform governmental and administrative functions until an organ for the self-governance in KiM is formed.⁷⁰⁶ Following the meeting, Mr. Milutinović and

⁷⁰¹ P604,pgs.214-216.

⁷⁰² P604,pg.214.

⁷⁰³ Tr.8466.

⁷⁰⁴ P604,pg.41.

⁷⁰⁵ P604,pg.216; 1D741,para.48; Tr.8494.

⁷⁰⁶ P416,Annex 13.

Mr. Rugova made televised statements to the foreign and international press.⁷⁰⁷ Mr. Milutinović emphasized the main points contained in the joint statement that he and Mr. Rugova signed. Mr. Rugova spoke of new trust and greater trust, cooperation to achieve a solution for KiM, getting out of the current situation, and forming new bodies for all nationalities and citizens of KiM. The words Mr. Rugova spoke about ending the war, improving the life of all citizens in KiM, based on mutual trust among the national communities in KiM and the authorities in Belgrade, were the principles on which he had based his political platform and political life from the time he formed his political party, the LDK, in the late 1980s.⁷⁰⁸ Indeed, Mr. Rugova was considered by everyone to be a very stable, democratic, non-radical politician, as the person who would be able to lead the Kosovars and deal with matters democratically and peacefully. As a politician, his guiding principles were political dialogue and taking concrete action through peaceful means.⁷⁰⁹

276. On 5 May 1999, Mr. Rugova, Mr. Merovci and their families flew from Belgrade to Rome.

277. On 13 May 1999, Mr. Milutinović hosted a small reception for a delegation of approximately twenty police officers from different branches of the Ministry of the Interior on the occasion of Security Day. This event was held every year on 13 May in keeping with a tradition that started prior to the creation of the SFRY and continued every year after 1945.⁷¹⁰ For example, exhibit 1D716 is the programme for the Security Day celebration in 1998, which announces a full day of activities and festivities: a reception at the seat of the MUP, a central celebration at the MUP with the minister's speech, commendations, the placing of flowers on the tomb of prominent MUP members, open air sporting and professional demonstrations, public information sessions, meetings, receptions and visits of retired, sick and wounded MUP members, sports competitions, literary award contest on the topic "Children and the Police" and exhibition of MUP members' paintings, concert of the police orchestra, and theatre play for MUP members'

⁷⁰⁷ Tr.8506-8507,Annex 14.

⁷⁰⁸ Tr.8492-8493,8507-8508. 1D60.

⁷⁰⁹ P2588,para.11.

⁷¹⁰ P604, pgs.178-179; 1D741, para.29.

children. Exhibit 1D715 is the draft greeting speech and the list of guests the Ministry of the Interior sent to Mr. Milutinović's office prior to Security Day in 1999.⁷¹¹ In his address, Mr. Milutinović congratulates the MUP on their holiday and makes a purely ceremonial speech concerning the work performed by the MUP. He made an appeal for the bombardment of the country to end and he made a call for peace and finding a solution through political means for all the national communities living in KiM.

PART 5: MR. MILUTINOVIĆ IS NOT GUILTY AS CHARGED

278. The foregoing review of the evidence in this case demonstrates that Mr. Milutinović is not guilty of any the charges contained in counts 1-5 of the indictment and that he must be acquitted on all counts. These charges allege powers, responsibility, knowledge, criminal intent, criminal conduct, including failure to act which are completely incorrect in law and entirely unsubstantiated by the evidence in this case. In particular, none of the allegations contained in paragraphs 1, 8, 20, 23, 35-39 of the indictment which the Prosecutor alleges link Mr. Milutinović to the alleged crimes has been proven. To the contrary, the evidence is that he never failed to fulfil his duties and responsibilities as the President of the Republic of Serbia.

279. His acts and conduct and state of mind were animated by the oath of office he took in December 1997. It states that as President he shall conscientiously and responsibly devote all his forces to the preservation of the sovereignty and integrity of the territory of the Republic of Serbia, to the realisation of human and civil freedoms and rights, to the observance and defence of the Constitution and laws; to the preserving of peace and welfare of all the citizens of the Republic of Serbia.⁷¹²

280. When analysing all the facts in this case, one can only conclude that Mr. Milutinović upheld the values enshrined in the constitution and he worked to avoid conflict and to bring peace to KiM. He worked diligently and responsibly for all the citizens of the Republic of Serbia. He used every effort to find a peaceful and just political solution through dialogue and negotiation which would grant substantial and

⁷¹¹ 1D715, Annex 15.

⁷¹² Annex 2,P855,Article 86.

meaningful self-governance in KiM. He always advocated both publicly and privately for doing what ever was necessary to solve the problems in KiM in order to avoid conflict and violence. He always called for tolerance and understanding among people to live together in a multi-ethnic, multi-confessional Kosovo and Metohija. He worked to preserve the sovereignty and territorial integrity of the republic and the peace and welfare of all its citizens.

PLANNING

281. Counts 1-5 charge Mr. Milutinović with planning pursuant to Article 7(1). An accused incurs liability by planning a crime, alone or together with others, that is later committed by the principal perpetrator.⁷¹³ The planning must be a factor substantially contributing to the perpetration of the crimes.⁷¹⁴ The accused must act with direct intent or with the awareness of the substantial likelihood that a crime would be committed in the execution of that plan.⁷¹⁵

282. There is no evidence that Mr. Milutinović planned any activity, directly or indirectly, alone or with others, or that he was aware that anyone else planned any activity that was a factor substantially contributing to the perpetration of any crime.

283. There is no proof that Mr. Milutinović ever had any criminal intent.

284. Mr. Milutinović must be acquitted of the charges of planning.

INSTIGATING

285. Counts 1-5 charge Mr. Milutinović with instigating pursuant to Article 7(1). The term "instigating" means "prompting another to commit an offence."⁷¹⁶ A causal link between the instigation and the perpetration must be demonstrated; but it need not be

⁷¹³ *Kordić* Appeal Judgement, para.26, *Haradinaj* Trial Judgement, para.142

⁷¹⁴ *Kordić* Appeal Judgement, para.26.

⁷¹⁵ *Kordić* Appeal Judgement, paras.29, 31, *Haradinaj* Trial Judgement, para.142

⁷¹⁶ *Limaj* Trial Judgement, para.514, *Krstić* Trial Judgement, para.601; *Blaškić* Trial Judgement, para.280; *Kordić* Appeal Judgement, para.27

shown that the crime would not have occurred without the accused's involvement.⁷¹⁷ It must be proven that the conduct of the accused was a factor substantially contributing to the perpetrator's conduct and that the accused intended to provoke or induce the commission of the crime, or was aware of the substantial likelihood that a crime would be committed in the execution of that instigation.⁷¹⁸

286. There is no evidence that Mr. Milutinović ever instigated anyone to commit a crime. To the contrary, through all his acts and words he took positive and concrete steps to calm the situation, to bring people together, to advocate peace and political dialogue, to find a resolution to the problems in KiM, and to work to restore peace and protect citizens from the ravages and dangers of war.

287. There is no proof that Mr. Milutinović ever had any criminal intent.

288. Mr. Milutinović must be acquitted of all charges of instigating.

ORDERING

289. Counts 1-5 charge Mr. Milutinović with ordering pursuant to Article 7(1). The *actus reus* of "ordering" requires that a person in a position of authority instructs another person to commit an offence.⁷¹⁹ Liability for "ordering" by omission does not exist. The very notion of "instructing" requires positive action by the person in authority.⁷²⁰ It must be proven that the accused either directly intended to bring about the commission of the crime, or have been aware of the substantial likelihood that the crime would be committed in the execution or implementation of the order.⁷²¹ Ordering does not require a formal superior-subordinate relationship but it must be established that the accused possessed the authority to order the commission of an offence, or that his authority can be

⁷¹⁷ *Brdjanin* Trial Judgement, para.269; *Blaškić* Trial Judgement para.280, *Kordić* Appeal Judgement, para.27.

⁷¹⁸ *Kordić* Appeal Judgement, paras.27, 32.

⁷¹⁹ *Galić*, Appeal Judgement, para.176, *Kordić*, Appeal Judgement, para.28, *Limaj*, Trial Judgement, para.515

⁷²⁰ *Galić*, Appeal Judgement, para.176.

⁷²¹ *Limaj*, Trial Judgement, para.515; *Kordić*, Appeal Judgement, paras.29,30; *Brdjanin*, Trial Judgement, para.270, *Blaškić*, Appeal Judgement, para.42; *Strugar*, Trial , Judgement, para.333; *Galić*, Appeal Judgement, para.152.

reasonably implied.⁷²² There is no requirement that the order be given in writing, or in any particular form, and the existence of the order may be proven through circumstantial evidence.⁷²³

290. Mr. Milutinović had no authority or ability *de jure* or *de facto* to issue anyone an order. There is no evidence that he ever issued an order of any kind to anyone or that he was aware that anyone else ever issued an order to commit a crime of any kind.

291. There is no proof that Mr. Milutinović ever had any criminal intent.

292. Mr. Milutinović must be acquitted of all charges of ordering.

AIDING AND ABETTING

293. Mr. Milutinović is not liable for any of the crimes alleged in counts 1-5 as an aider and abettor pursuant to Article 7(1).

294. Aiding and abetting is a form of accomplice liability, defined as the act of rendering practical assistance, encouragement or moral support, which has a substantial effect on the perpetration of a certain crime.⁷²⁴ The assistance may occur before, during or after the principal crime has been perpetrated.⁷²⁵ The *mens rea* required is knowledge that, by his conduct, the aider and abettor is assisting or facilitating the commission of the offence.⁷²⁶ This awareness need not have been explicitly expressed, but may be inferred from all relevant circumstances.⁷²⁷ The aider and abettor need not share the *mens rea* of the perpetrator, but he must be aware of the essential elements of the crime ultimately

⁷²² *Galić*, Appeal Judgement, para.176, *Kordić*, Appeal Judgement, para.28, *Brdjanin* Trial Judgement, para.270.

⁷²³ *Kamuhanda*, Appeal Judgement, para.76, citing *Kordić*, Trial Judgement, para.388; *Blaškić* Trial Judgement, para.281; *Limaj*, Trial Judgement, para.515.

⁷²⁴ *Krstić* Trial Judgement, para.601, *Furundžija* Trial Judgement, para.249, *Aleksovski* Appeal Judgement, para.162, citing *Furundžija* Trial Judgement, para.249, *Blaškić* Appeal Judgement, para.48, *Kunarac* Trial Judgement, para.391, *Limaj* Trial Judgement, para.517.

⁷²⁵ *Brdjanin* Trial Judgement, para 271, *Blaškić* Appeal Judgement, para 48, *Krnjelac* Trial Judgement, para.88.

⁷²⁶ *Furundžija* Trial Judgement, para.249, *Tadić* Appeal Judgement, para.229, *Blaškić* Appeal Judgement, para.49, *Vasiljević* Appeal Judgement, para.102, *Limaj* Trial Judgement, para.518.

⁷²⁷ *Čelebići* Trial Judgement, para.328, *Tadić* Trial Judgement, para.676.

committed by the perpetrator, and must be aware of the perpetrator's state of mind.⁷²⁸ For persecution, an aider and abettor must be aware not only of the crime he is assisting, but also that it is committed with discriminatory intent. He does not need to share the discriminatory intent, but he must be aware of the broader discriminatory context.⁷²⁹

295. The *Mrkšić* Trial Chamber stated that an accused may be liable of aiding and abetting by omission, when he is under a duty to prevent the commission of a crime but failed to act, provided his failure to act had a substantial effect on the commission of the crime and he had the requisite *mens rea*.⁷³⁰ The *Brdjanin* Appeals Chamber distinguished between aiding and abetting by omission by tacit approval and encouragement and aiding and abetting by "omission proper".⁷³¹ The Appeals Chamber had never set out the requirements for conviction for omission in detail, but it has referred to the standard set out in *Ntagerura* as the most comprehensive statement of the requirements for guilt by omission proper:

- a. the accused must have had a duty to act mandated by a rule of criminal law;
- b. the accused must have had the ability to act;
- c. the accused failed to act intending the criminally sanctioned consequences or with awareness and consent that the consequences would occur; and
- d. the failure to act resulted in the commission of the crime.⁷³²

Recently, the Appeals Chamber in *Orić* stated that, at a minimum the offender's conduct would have to meet the basic elements of aiding and abetting. His omission must be directed to assist, encourage or lend support to the perpetration of a crime and have a substantial effect upon the perpetration of the crime (*actus reus*). The aider and abettor must know that his omission assists in the commission of the crime of the principal perpetrator and must be aware of the essential elements of the crime which was ultimately committed by the principal (*mens rea*).⁷³³

⁷²⁸ *Brdjanin* Trial Judgement, para. 273, *Aleksovski* Appeal Judgement, para. 162.

⁷²⁹ *Simić* Trial Judgement, para. 164.

⁷³⁰ *Mrkšić* Trial Judgement, para. 553.

⁷³¹ *Brdjanin* Appeal Judgement, paras. 273-277.

⁷³² *Brdjanin* Appeal Judgement, paras. 274-275, fn. 557; *Ntagerura* Trial Judgement, para. 659, *Ntagerura* Appeal Judgement, para. 333.

⁷³³ *Orić* Appeal Judgement, para. 43.

296. There is no evidence that Mr. Milutinović through his conduct ever aided and abetted any of the alleged crimes in counts 1-5 of the indictment. Nothing he did provided practical assistance, encouragement, or moral support which had a substantial effect on the perpetration of any alleged crime. He never failed at any time to work for all the citizens of the Republic of Serbia before and during the war within the purview of his authority and competence under the constitution. To the contrary, the evidence in this case is that Mr. Milutinović's acts, conduct, and state of mind were those of the President of the Republic who conducted himself responsibly, with full respect for the constitution and the laws of the country.

297. There is no proof that Mr. Milutinović ever had any criminal intent.

298. Mr. Milutinović must be acquitted of all charges for aiding and abetting.

COMMITTING (JCE)

299. Mr. Milutinović is not liable for having committed any of the crimes alleged in counts 1-5, as a co-perpetrator in a JCE pursuant to Article 7(1).

300. All the accused are charged under the first and third categories of JCE.⁷³⁴ In the *Rule 98bis Judgement*, the Trial Chamber observed that the alleged common purpose of the JCE under the first category was the forcible displacement of the Kosovo Albanian population and under the third category that the murders and persecutions committed in conjunction with the main aim of the JCE were natural and foreseeable consequences. The members of the JCE are charged with using the members of the forces of the FRY and Serbia that they allegedly controlled to carry out deportations, forcible transfers, murders, and persecutions.⁷³⁵ It is alleged that the members of the JCE controlled organised structures of power and used persons who were not members of the JCE as tools to carry out the JCE.

⁷³⁴ *Vasiljević Appeals Judgement*, para.100; *Kvočka Appeal Judgement*, para 96, *Tadić Appeal Judgement*, para.227, *Krnjelac Appeal Judgement*, para.31, *Stakić Appeal Judgement*, para.64, *Mrkšić et al*, Trial Judgement, para.545.

⁷³⁵ Tr.12786-12787.

301. It must be proven that a plurality of persons shared the common criminal purpose; that the accused made at least a significant contribution to this common criminal purpose; and that the commonly intended crime (or foreseeable crimes under the third category) did in fact take place.⁷³⁶

302. Furthermore, it must be proven that the accused possessed the requisite criminal intent and this criminal intent must be the only reasonable inference on the evidence. For the first category of JCE, it must be proven that the accused both intended the commission of the crime and intended to participate in a common plan aimed at its commission. For the third category of JCE, the accused can only be held responsible for a crime outside the common purpose if, under the circumstances of the case: (i) it was foreseeable that such a crime might be perpetrated by one or other members of the group and (ii) the accused willingly took that risk (*dolus eventualis*). The crime must be shown to have been foreseeable to the accused in particular.⁷³⁷ The Prosecution must prove that the accused had sufficient knowledge that the additional crimes were a natural and foreseeable consequence.⁷³⁸

303. There never existed a shared common criminal purpose to expel, murder, persecute or otherwise do harm to anyone and particularly there was no plan with the purpose of modifying the ethnic balance in KiM in order to ensure continued Serbian control over the province. The direct evidence in the case is that state policy and all measures and steps discussed and executed during 1998 and 1999 were intended to find a peaceful and permanent solution to the problems in KiM. Any actions taken by the legally authorized institutions to fight terrorism and defend the the sovereignty and territorial integrity of the State were conducted in full compliance with international humanitarian law and the protection of the civilian population in response to attacks and aggression from the KLA, NATO and forces from the Republic of Albania.

- Every witness with direct knowledge of events stated unequivocally that there was no plan as alleged by the Prosecutor. This included prosecution witnesses.

⁷³⁶ *Brdjanin* Appeal Judgement, para.427-430.

⁷³⁷ *Brdjanin* Appeal Judgement, para.365,411,427-430.

⁷³⁸ *Kvočka* Appeal Judgement, para.86.

General Drewienkiewicz, Deputy Head of KVM for Operations, stated: "I do not believe that at any stage prior to KVM's departure a master plan existed to expel the Albanian population. Nothing I saw or that anyone said indicated that there was such a master plan."⁷³⁹ General Vasiljević, the Deputy to the head of the VJ Security Service, another Prosecution witness, testified he knew of no plan to expel ethnic Albanians. General Vasiljević explained that had such a plan existed involving the VJ it would certainly have been discussed at the daily briefings of the Supreme Command Staff.⁷⁴⁰

- On 18 March 1998, Mr. Milutinović made public his declaration on the political process in KiM and he gave his undertaking to act as "guarantor" in all efforts to find a peaceful, negotiated solution to the problems in KiM.⁷⁴¹
- UN Security Council Resolution 1160 expressly noted the declaration by Mr. Milutinović, and called for immediate talks to begin.⁷⁴²
- With the full consensus of the National Assembly, the Government of the Republic of Serbia established a state delegation established by the Government of the Republic of Serbia to enter into discussion with political leaders in KiM to negotiate self-governance in KiM. This was fully supported by the Federal Government.⁷⁴³
- On 23 March 1998, the Measures for the Implementation of the 3+3 Education Agreement was signed and, with the full support and efforts of Mr. Milutinović, work began on implementation. Education facilities in schools and universities were handed over the Kosovar Albanians and classes commenced in the autumn of 1998. Facilities continued to be handed over until 28 March 1999, the fourth day of the war, when campus buildings were handed over.⁷⁴⁴
- On 9 June 1998, at the secret and confidential meeting of the VSO, the political standpoint unanimously adopted by all its members was that political talks aimed

⁷³⁹ P2508, para. 174

⁷⁴⁰ Tr. 8840

⁷⁴¹ *Supra*, paras. 127-129.

⁷⁴² P455.

⁷⁴³ *Supra*, paras. 130-131.

⁷⁴⁴ *Supra*, paras. 132-134.

at finding a political solution to the problems in KiM must succeed in order to avoid a NATO attack, which the FRY wanted to avoid at all cost.⁷⁴⁵

- On 10 June 1998, the SPS main board supported measures taken by state organs to normalize the situation in KiM to ease tensions, rebuild confidence among ethnic groups, and concluded that all open issues in KiM can only be solved by political means starting from the basic principle of national equality of all citizens.⁷⁴⁶
- On 16 June 1998, the FRY agreed to bring international diplomatic observers to KiM (KDOM) in furtherance of the policy to seek a peaceful resolution to the problems in KiM by political means.⁷⁴⁷
- In the spring and summer, the Government of the Republic of Serbia established institutions on the ground in KiM to coordinate with international humanitarian organisations for the distribution of humanitarian aid to all citizens.⁷⁴⁸
- On 28 September 1998, the National Assembly of the Republic of Serbia issued public Conclusions that called for the peaceful and negotiated resolution to the problems in KiM. They made a clear distinction between terror and terrorists and the vast majority of the Albanian community living in KiM that wished to live together with their neighbours in peace. They included measures and plans for the speedy resolution of all humanitarian problems in KiM. At this session of the National Assembly the multi-ethnic Temporary Executive Council was established to work in the area of social and humanitarian issues.⁷⁴⁹
- On 28 September 1998, the Federal Assembly and the Federal Government endorsed the decision and conclusion of the National Assembly of Serbia. On 5 October 1998, the Federal Assembly adopted conclusions on a political programme for the normalization of the situation in KiM.⁷⁵⁰
- On 4 October 1998, at the secret and confidential meeting of the VSO, the firm and unequivocal position of all the participants at this meeting was that a political solution for the problems in KiM must be found and that there should be full

⁷⁴⁵ *Supra*, para. 79.

⁷⁴⁶ P1012.

⁷⁴⁷ *Supra*, paras. 140-142.

⁷⁴⁸ *Supra*, paras. 168-169.

⁷⁴⁹ *Supra*, paras. 170-171.

⁷⁵⁰ *Supra*, paras. 172-173.

compliance with the Security Council Resolution 1199. Mr. Milutinović insisted that they should do whatever it takes to fulfil the call by the UN Security Council to achieve a peaceful, political solution to the problems in KiM, through dialogue and reason. The political standpoint of the VSO adopted unanimously by all its members was that "Yugoslavia is firm in their choice of peace, and ready to solve all outstanding issues in a peaceful manner, but if we should be attacked, we will defend our country by all means".⁷⁵¹

- By mid-October 1998, the following agreements were in place: the Holbrooke-Milošević agreement which was endorsed by the Government of the Republic of Serbia in an 11-point framework and timetable; the KVM Agreement between NATO and the FRY, the Agreement on the OSCE KVM, the Record of the Meeting between Representatives of the FRY, the Republic of Serbia and NATO on achieving full compliance with UN Security Council Resolution 1199, and the Understanding Between KDOM and MUP of the Republic of Serbia.⁷⁵²
- There was full cooperation and compliance with the agreements concluded in October 1998.⁷⁵³
- Concern had been expressed in the autumn of 1998, by Vladan Kutlešić, Deputy Prime Minister of the Federal Government and Special Envoy of the President of the FRY on the state delegation (also in Rambouillet) that inaccurate census information – due to the boycott of the 1991 census by Kosovar Albanians – was being manipulated by the separatists in KiM. Credible census information about the Kosovar Albanian population had not been available since 1961. To that end, the need for a census was anticipated across the entire Republic of Serbia. The purpose of the census was to avoid any kind of speculation or manipulation by anyone, while efforts to achieve an agreement on self-governance in KiM were underway. The aim of the census was to provide real and credible information to Serbia and Yugoslavia, the UN, the European Economic Commission and other prominent international organizations, and the political representatives of Albanians in KiM. Detailed recommendations - the list of necessary conditions

⁷⁵¹ *Supra*, paras.80,174.

⁷⁵² *Supra*, para.175.

⁷⁵³ 2D8; Tr.13840; 2D9; Tr.13841; 2D67, para.11; T.13832; Tr.14030; 3D786, para.1; Tr.14979; 3D787; 3D408; Tr.14992-14993; 3D407; 4D505, para.25; Tr.26494; 4D505, paras.29-30; 2543; Tr.7923; Tr.14949-14950

and funds required - were set forth to ensure the credibility, organization, conduct and supervision of the census in KiM. There was a protocol proposed to satisfy the three interested parties (the State, the Albanian representatives, and international organisations) and a methodology based on international standards or recommendations of the UN for censuses.⁷⁵⁴ The results would be published in Serbian, English, and Albanian. It was envisaged that “due to the great importance of census information for the process of finding a political solution to the conflict in Kosovo and Metohija, a large share of the funds might be obtained from international organisations (foundations)”.⁷⁵⁵

- Between March and November 1998, over fifteen invitations to attend talks were sent by the state delegation and Mr. Milutinović to the representatives of the leading Kosovar Albanian political parties, including the KLA. The Kosovar Albanian leaders only sat down once with the state delegation for a brief meeting in Priština in June.⁷⁵⁶
- Through the shuttle diplomacy of Ambassadors Hill and Petritsch, the state delegation worked continuously and diligently to achieve an agreement on self-governance in KiM. This process resulted in the *Joint Proposal of the Agreement on the Political Framework of Self-Governance in Kosovo and Metohija* (20 November 1998), which was endorsed in the *Priština Declaration* on 25 November 1998. The state delegation continued to use every effort to conclude an agreement up to and including 2 December 1998, which was acceptable to the Americans and the Serbs. The Kosovar Albanian side flatly rejected the process of negotiation and repeated calls to achieve their historic mission which was to unite the Albanians across KiM, Albania and Macedonia in a single state.⁷⁵⁷ This is the goal the KLA pursued through armed insurrection and acts of terrorism.
- On 4 February 1999, the National Assembly of the Republic of Serbia adopted Conclusions, accepting the invitation of the Contact Group for talks in Rambouillet and authorizing the Government to designate a delegation to attend.

⁷⁵⁴ P2843,para.10.

⁷⁵⁵ P2843,para.13.P2842.

⁷⁵⁶ *Supra*,paras.137-138,143-144.

⁷⁵⁷ *Supra*,paras.147-161.

These Conclusions included the principles that the National Assembly believed formed the basis for the peaceful resolution to the problems in KiM.⁷⁵⁸

- The Federal Government adopted a platform for Rambouillet that was the same as the Conclusions expressed by the National Assembly of the Republic of Serbia.⁷⁵⁹
- The state delegation attended meetings in Rambouillet and Paris in good faith. They publicly accepted the 11 Non Negotiable principles of the Contact group while Kosovar Albanian delegation did not. Mr. Milutinović advised the Contact Group foreign ministers that they were prepared to accept a political agreement on self-governance in KiM. The state delegation was prepared to negotiate the scope and character of an international presence in KiM to implement the agreement. However, it had no mandate from the National Assembly to accept foreign troops on the territory to implement a political agreement. Furthermore, the state delegation opposed the tabling of Chapters 2 and 7 on implementation and in particular the deployment of NATO troops in the FRY. These Chapters had not been discussed or approved by the Contact Group. The substance and effect of these provisions meant military occupation of the FRY. The Russian Federation did not associate itself with Chapters 2 and 7 and, along with the state delegation, refused to sign the Rambouillet document.
- On 23 March 1999, the National Assembly of the Republic of Serbia voted against the deployment of NATO troops and called for the immediate negotiation of the scope and character of international presence in KiM, after the signing of a political accord on self-governance.⁷⁶⁰
- On 1 April 1999, President Milošević met with Ibrahim Rugova and they signed a public joint statement calling for a permanent peaceful resolution to problems.⁷⁶¹
- On 6 April 1999, the Federal Government and the Government of the Republic of Serbia issued a joint statement calling for a unilateral cease fire by the VJ and MUP over the Easter period and to resume work towards achieving a political

⁷⁵⁸ *Supra*, para. 184.

⁷⁵⁹ *Supra*, para. 185.

⁷⁶⁰ *Supra*, paras. 241-242.

⁷⁶¹ *Supra*, paras. 259.

agreement for KiM and to work towards the return of refugees who had fled KiM because of the war.⁷⁶²

- On 8 April 1999, the Federal Government issued a public statement denouncing the heightened and intensified attacks by NATO following the call for a temporary cease fire. The Federal Government made an appeal to the world for humanitarian assistance in response to the humanitarian crisis which had resulted from the NATO air campaign, and called once again for a stop to the bombardment and the war, and for a peaceful resolution.⁷⁶³
- The General Staff of the VJ always insisted on finding a political solution to the problems in KiM.⁷⁶⁴
- In early April, the Staff of the Supreme Command made a public announcement to all citizens condemning NATO air strikes and calling on citizens to refuse to fight along side the KLA and to return to their homes, to restore peace, and for all people to live together without hatred and contempt regardless of religion or nation.⁷⁶⁵
- On 16 April 1999, Mr. Milutinović met Ibrahim Rugova and he told him "Kosovo is yours" and that he was the leader of the citizens of Kosovo. Mr. Milutinović arranged with Italian foreign minister to have Dr. Rugova, his associate and their families fly to Rome in order for Dr. Rugova to discuss his political future with his party membership in the West.⁷⁶⁶
- On 28 April 1999, in Priština, Mr. Milutinović and Ibrahim Rugova signed a joint statement and addressed the domestic and international media calling for an end to the war and the immediate renewal and intensification of discussions on a political agreement for self-government in KiM, and the immediate establishment of a temporary and transitional executive council in KiM.⁷⁶⁷
- At the secret and confidential meetings of the Collegium of the General Staff between 26 September 1998 and 9 April 1999, there is no mention of any criminal

⁷⁶² *Supra*, paras.260.

⁷⁶³ *Supra*, paras.261.

⁷⁶⁴ Tr.26672.

⁷⁶⁵ *Supra*, paras.262.

⁷⁶⁶ *Supra*, paras.271.

⁷⁶⁷ *Supra*, paras.273.

plan, its preparation, or implementation.⁷⁶⁸ The need for a peaceful, political and diplomatic solution is continuously stressed, both prior to and during the war.⁷⁶⁹ The secret and confidential daily briefings of General Ojdanic conducted during the war reveal no plan, no discussion of any plan or its implementation.⁷⁷⁰ Compliance with international law is stressed and orders to prevent crimes were issued.⁷⁷¹ The same is true of the secret and confidential VJ Intelligence Department Briefings. These reports highlight false media manipulation, propaganda, and other means used to portray an alleged humanitarian disaster caused by the Serbs which was being used to justify NATO bombing.⁷⁷² The same is true of secret and confidential the Daily Combat Reports prepared by the Staff of the Supreme Command.⁷⁷³

- In 1998 and 1999, there were measures and orders continuously prepared and issued to prevent crime.⁷⁷⁴
- FRY and Serbia continued to seek a peaceful solution through numerous contacts with international dignitaries and finally reached one with the help of Mr. Ahtisaari and Mr. Chernomyrdin in June 1999.
- Contrary to the allegation by the Prosecutor, it cannot reasonably be inferred from the alleged crime base that a "plan" must have existed. There is evidence of civilians being told to return home and redirecting people for their own safety. There are inconsistencies in the evidence and witnesses who cannot be relied upon with regard to the identification of perpetrators of crimes. There is evidence of an atmosphere of utter confusion, of bombing and fighting between the KLA and Serb forces.⁷⁷⁵ There is evidence of civilians turning against other civilians and opportunities were taken to resolve previous personal vendettas.⁷⁷⁶ These examples are indicative of a typical war situation and do not amount the

⁷⁶⁸ Annex 26.

⁷⁶⁹ 3D1076,pgs.2-3; 3D1076,p.5; P923,pg.11; P938,pg.8; P927,pg.11; P929,pg.18; P941,pg.4; P929,pg.7

⁷⁷⁰ Annex 27.

⁷⁷¹ Annex 28.

⁷⁷² Tr.16979; 3D719,pg.3; 3D586,pg.3; 3D601,pg.4; 3D719,pg.3;3D586 pg.3; 3D723,pg.4

⁷⁷³ 3D808-3D875.

⁷⁷⁴ P626, paras1-4, 4D300,P1535,4D289,4D183,4D428,4D183,4D297,4D201,P1422,4D375,4D232,4D355, 3D750,3D790,3D985;4D86;4D329;4D452;5D198;5D199;5D201;5D315;5D343;5D365;5D372;5D389; 5D390;5D412;5D486;5D592;5D665;5D793;5D803;5D805;5D816;5D1000;5D1037;5D1101;5D1144;P130 6;P1921;P2029,para.4;6D802;4D428;4D300;4D171;3D493.

⁷⁷⁵ 5D412;5D1037.

⁷⁷⁶ 5D382.

establishment of any sort of plan to remove the population. The crime base evidence is inconsistent with the notion of a "plan." The Prosecution's theory of the "only reasonable inference" does not bear serious scrutiny and analysis.

- The assertion made by the Prosecutor that following the war, individuals received promotions, awards, honours, and other considerations, as proof of their participation in an alleged JCE is completely misguided. The evidence is that hundreds of individuals received commendations or decorations after the war. Mr. Milutinović never received any for the simple reason that he had no connection with the war effort to defend the country.⁷⁷⁷

304. Mr. Milutinović never participated, directly or indirectly, in any common criminal purpose of any kind. He was not aware of the existence of any sort of common criminal purpose of any kind.

305. There is no proof that Mr. Milutinović ever had any criminal intent.

306. Mr. Milutinović must be acquitted of all charges of committing the alleged crimes as a co-perpetrator in a JCE.

SUPERIOR AUTHORITY

307. Mr. Milutinović is not liable for any of the crimes alleged in counts 1-5 as a superior authority pursuant to Article 7(3).

308. Under Article 7(3) three conditions must be met before a superior can be held responsible for the acts of his or her subordinates:

- a. The existence of a superior-subordinate relationship;
- b. The superior knew or had reason to know that the subordinate was about to commit such acts or had done so; and

⁷⁷⁷ P604,pg.150;P1018;P1368.

- c. The superior failed to take the necessary and reasonable measures to prevent such acts or to punish the principal offenders thereof.⁷⁷⁸

309. The existence of a superior-subordinate relationship requires a hierarchical relationship between the superior and subordinate. The relationship need not have been formalised and it is not necessarily determined by formal status alone.⁷⁷⁹ A hierarchical relationship may exist by virtue of an accused's *de facto*, as well as *de jure*, position of superiority.⁷⁸⁰ The threshold to be reached in establishing a superior-subordinate relationship for the purpose of Article 7(3) is the effective control over a subordinate in the sense of material ability to prevent or punish criminal conduct.⁷⁸¹

310. Effective control means the material ability to prevent offences or punish the principal offenders at the time of the commission of subordinates' crimes. Proof is required that the accused was not only able to issue orders but that the orders were actually followed. It must be proven that the accused had the power to prevent, punish, or initiate measures leading to proceedings against the alleged perpetrators where appropriate.⁷⁸² Where a superior has effective control and fails to exercise that power he will be responsible for the crimes committed by his subordinates.⁷⁸³

311. In relation to the issue of knowledge, it must be demonstrated that the superior knew or had reason to know that his subordinate was about to commit or had committed a crime. It must be proved that:

- a. The superior had actual knowledge, established through either direct or circumstantial evidence, that his subordinates were committing or about to commit crimes within the jurisdiction of the Tribunal, or
- b. He had in his possession information which would at least put him on notice of the risk of such offences, such information alerting him to the

⁷⁷⁸ *Čelebići* Appeal Judgment, paras.189-198,225-226,238-239,256, 263; *Aleksovski* Appeal Judgment, para.72.

⁷⁷⁹ *Čelebići* Appeal Judgment, paras.205-206.

⁷⁸⁰ *Čelebići* Appeal Judgment, paras.192-194, 266.

⁷⁸¹ *Blaškić* Appeal Judgment, para.375. *Čelebići* Appeal Judgement, para.256.

⁷⁸² *Blaškić* Appeal Judgement, para.69, *Aleksovski* Appeal Judgement, paras.73-76; *Čelebići* Appeal Judgement, para.206.

⁷⁸³ *Čelebići* Appeal Judgment, paras.196-198.

need for additional investigation to determine whether such crimes were or were about to be committed by his subordinates.⁷⁸⁴

The standard “had reason to know” means that “a superior will be criminally responsible through the principles of superior responsibility *only if specific information was in fact available to him* which would have put him on notice of offences committed or about to be committed by subordinates.”⁷⁸⁵ A “[n]eglect of a duty to acquire such knowledge, however, does not feature in the provision [Article 7(3)] as a separate offence, and a superior is not therefore liable under the provision for such failures but only for failing to take necessary and reasonable measures to prevent or to punish.”⁷⁸⁶

312. For a non-military superior, under customary international law, the *mens rea* standard is “knew or consciously disregarded information clearly indicated or put on notice” that subordinates had committed or were about to commit offences. This formulation of *mens rea* is contained in Article 28(b)(i) of the Rome Statute 1998,⁷⁸⁷ and expresses the legal position, i.e. *opinio juris*.⁷⁸⁸ Furthermore, before the ICTR, the *Kayishema and Ruzindana Trial Judgement*,⁷⁸⁹ following the Rome Statute, applied the *mens rea* standard set out in Article 28(b)(i).

313. In relation to the issue of acquiescence, it must be shown that the superior failed to take the necessary and reasonable measures to prevent or punish the crimes of his subordinates. The measures required of the superior are limited to those which are feasible in all the circumstances and are “within his power”. He is not obliged to perform the impossible. However, the superior has a duty to exercise the powers he has within the confines of those limitations.⁷⁹⁰ What constitutes such measures is not a matter of

⁷⁸⁴ *Čelebići* Appeal Judgment, paras.223-226.

⁷⁸⁵ *Blaškić* Appeal Judgement, para.62; *Čelebići* Appeal Judgement, para.241; *Krnjelac* Appeal Judgement, para.151; *Boškoski* Trial Judgement, para.414.

⁷⁸⁶ *Blaškić* Appeal Judgement, para.62. *Čelebići* Appeal Judgement, para.226.

⁷⁸⁷ Rome Statute.

⁷⁸⁸ *Tadić* Appeal Judgement, para.223.

⁷⁸⁹ *Kayishema*, Trial Judgement, paras.227-228.

⁷⁹⁰ *Čelebići* Appeal Judgment para.226.

substantive law but of evidence, whereas the effect of such measures can be defined by law.⁷⁹¹

314. The facts in this case are that *de jure* and *de facto* Mr. Milutinović had no subordinates at all: no one over whom he had effective control. He had no knowledge that any of the alleged crimes were about to be committed or had been committed, nor did he have any knowledge that any of the alleged crimes had been committed. He had no power *de jure* or *de facto* to punish, or initiate measures leading to proceedings against the alleged perpetrators of crime. Mr. Milutinović had no reason to believe that the competent authorities within the VJ and MUP with full and exclusive superior authority over their subordinates were not complying in full with their obligations to prevent and punish crime.

315. Mr. Milutinović must be acquitted of the charge of failing to prevent or punish alleged perpetrators of crimes as a superior authority under Article 7(3).

REQUESTED RELIEF

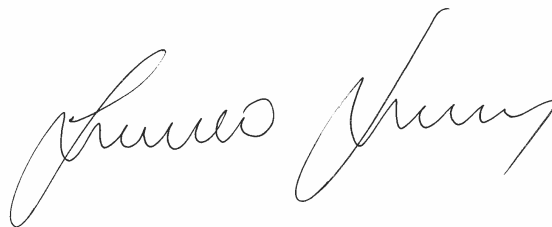
316. The full acquittal of Mr. Milutinović of all the charges contained in counts 1-5 of the indictment.

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Respectfully submitted:



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⁷⁹¹ *Blaškić* Appeal Judgement, para. 72. *Čelebići* Appeal Judgement, para. 198.

ANNEX 1**ANALYSIS OF THE EXPERT REPORT AND EXPERT TESTIMONY OF
PROFESSOR RATKO MARKOVIĆ**

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THE AUTHORITY AND COMPETENCES OF THE PRESIDENT OF THE REPUBLIC OF SERBIA

1. The starting point in analyzing the authority and competence of the President of the Republic of Serbia is Article 9 of the *Constitution of the Republic of Serbia*¹. This provision sets out the division of powers between the National Assembly, the President of the Republic, the Government, and the Judiciary. The President does not exercise legislative, executive or judicial authority, but rather “represents” the Republic of Serbia and “symbolizes” its state unity.² Legislative power belongs to the National Assembly, full executive power is vested in the Government, and judicial authority is vested in the courts. The Constitutional Court assesses the constitutionality and legality of matters brought before it, in accordance with the constitution. The President of the Republic is not accorded any one of the active powers, as explicitly stated in the provisions of the constitution.³

2. The powers of the President of the Republic of Serbia are considerably narrower than the powers of a head of state in a presidential system in which the head of state is the sole organ of executive government (so called “monocephalic executive”) also stemming from direct elections.⁴ Scholarly research in the field of constitutional law does not list Serbia as a country with semi-presidential systems. This type of government was described by the French constitutionalist, Maurice Duverger. France is one of the inceptors of such a system according to the constitution of the 5th Republic. This is so because in a semi-presidential system the constitution only deals with the mechanism for electing and recalling the President of the Republic. However, this very strict and demanding mechanism is not accompanied by important powers. These powers may be compared to those of the President of Austria, about which Mihail Haynich said that the only place where the President of the Republic can stick his nose is his handkerchief. Practically speaking, he has no powers either to interfere in the work of other organs nor is he vested with other types of powers, judicial, legislative, or executive. Indeed, Miša Djurković, scholar and advisor to prime minister of the Republic of Serbia, Dr.

¹ Annex 2,P855.

² 1D682,para.2.38.

³ Tr.12979-12980.

⁴ 1D682,para.2.1.

Koštunica, wrote that Serbia does not have a semi-presidential system, but rather it has a peculiar system of government which is in theory called the system of rationalised parliamentaryism.⁵ This is a term introduced by French Professor Boris Mirkin-Gecevic between the two world wars. The countries with this system typically strengthened the position of the cabinet, and they are normally called countries with rationalised parliamentaryism.⁶

3. Furthermore, the powers of the President of the Republic of Serbia are an exclusively constitutional category. This means that his authority, competence, and ability to act are determined by the *Constitution of the Republic of Serbia* and that the President of the Republic cannot be afforded any new or additional powers or have any of his competences restricted by law.⁷ This is the meaning of Article 83(12) of the *Constitution of the Republic of Serbia*. The Constitutional Court of Serbia has ruled that the authority and competences of the President of the Republic can be set forth only in the constitution and cannot be extended or reduced by legislation. The case brought before the Court concerned the constitutionality of the *Law on Ranks of the members of the Ministry of the Interior*.⁸ On that occasion, the Court held that the powers of the President of the Republic cannot be expanded by legislation.⁹ The Court ruled that the provisions of the law permitting the President of Serbia to award a rank were unconstitutional, as being contrary to the Constitution of Serbia. The powers of the President of Serbia derive only from the express terms of the constitution, and the provisions in the law which expanded the powers were quashed and set aside.¹⁰

4. The powers of the President of the Republic are systematically laid down in Article 83 of the *Constitution of the Republic of Serbia* (from the point of view of the President's powers, this article is *sedes materiae*) as well as in Articles 84, 85, 89 and 132(1) of the *Constitution of the Republic of Serbia*, which specify the relationship

⁵ 1D682,pg.32, Bibliography. Miša ĐURKOVIĆ, "Limited Power" (1), "Missed Opportunities" (2), *Politika*, 14-15 March 2005.

⁶ Tr.12999-13000.

⁷ 1D682,para.2.2.

⁸ 1D639.

⁹ Tr.12876-12877.

¹⁰ Tr.12945-12951. 1D639,pgs.1-4.

between the President of the Republic, on the one hand, and the National Assembly and the Government, on the other.¹¹

Three Categories of Authority and Competences

5. Professor Marković's expert opinion classifies all the authority, competence, and the ability of the President of the Republic of Serbia to act pursuant to the constitution into three groups.¹² First, the President of the Republic representing the state of Serbia (according to Article 1 of the *Constitution of the Republic of Serbia*, the Republic of Serbia is a "state", a constituent unit in a federal state); second, the President of the Republic as a state organ representing a stable, non-operational executive, unlike the government, which represents a changeable (depending on whether there is confidence by the parliamentary majority) and operational executive; and third, the competence and authority of the President of the Republic during irregular situations that are known in theory under the name "state of necessity".¹³

1st Category: The President of the Republic of Serbia - Representing the State of Serbia

6. Paragraphs 2.4 to 2.13 of Professor Marković's expert opinion analyse and discuss three constitutional provisions in relation to the President of the Republic of Serbia, as an organ representing or "personifying" the state of Serbia: Article 83(4), international relations, Article 83(9), pardons, and Article 83(10), conferring decorations and awards. The powers relating to representing the state of Serbia is a generic property or attribute of every head of state. The definition of a head of state, whether he is a monarch or the President of a Republic, is that he or she personifies or represents the State.¹⁴

2nd Category: The President of the Republic of Serbia - A Stable, Non-operational Executive

7. Paragraphs 2.16 to 2.24 of Professor Marković's expert opinion analyse and discuss four constitutional provisions in relation to the President of the Republic of

¹¹ 1D682,para.2.2.

¹² Tr.12888.

¹³ 1D682,para.2.3.

¹⁴ Tr.12888.

Serbia, as an organ of stable, non-operational executive: Article 83(1), prime minister, Article 83(2), president and judges of the constitutional court, Article 83(3), promulgating laws by ordinance, and Article 132, amendments to the constitution.

8. In accordance with Article 9(2) of the *Constitution of the Republic of Serbia*, the President of the Republic does not have executive power.¹⁵ For this reason, the President of the Republic in this kind of constitutional order is a state organ representing non-operational executive. In other words, he does not have operational executive powers; rather, it is the Government that has such powers. This second attribute is a consequence of a system of a government established in the constitution of 1990 and which is theoretically described as a mixed system of government because it combines some characteristics of a presidential system of government and a parliamentary system of government. Basically, this is a parliamentary system of government, but amended with some principles that are characteristic of a presidential system of government, primarily referring to the election of the President and not to his powers.¹⁶

3rd Category: The President of the Republic of Serbia – Irregular Circumstances

9. Paragraphs 2.25 to 2.36 of Professor Marković's expert opinion analyse and discuss four constitutional provisions in relation to the President of the Republic of Serbia in irregular circumstances. These are circumstances when the division of competencies between the legislative and executive bodies under the constitution is disturbed because of the interest of the state – which is supposed to be the greatest good (*salus rei publicae suprema lex est*): Article 83(5), leading the armed forces, Article 83(6), imminent threat of war or state of war, Article 83(7), decrees during an imminent threat of war or state of war, Article 83(8), state of emergency.

10. The scale or register of irregular circumstances according to the constitution of 1990 encompasses three states: A state of emergency, which is the lowest degree; then the state of an imminent threat of war; and finally, a state of war.¹⁷

¹⁵ Annex 2,P855,Article 9.

¹⁶ Tr.12889.

¹⁷ Tr.12890.

THE PRESIDENT OF THE REPUBLIC OF SERBIA *SEDES MATERIAE*

11. IC131 is a six-page power point document which was used during the testimony of Professor Marković to assist the presentation of his expert evidence on the authority and competences of the President of the Republic of Serbia under Article 83 of the *Constitution of the Republic of Serbia*. IC131 uses the three categories of the powers of the President of the Republic of Serbia established in paragraph 2.3 of Professor Marković's expert opinion: representing the state of Serbia, a stable, non-operational executive, and irregular situations.¹⁸ Within each of these three categories, the authority, competence, and ability of the President of the Republic of Serbia to act was presented and analysed by Professor Marković during his testimony in court.¹⁹

12. To understand the proper construction and interpretation of the powers of the President of the Republic of Serbia, it is important to examine two preliminary matters. First, the political and social context that existed in the SFRY when the *Constitution of the Republic of Serbia* was enacted, namely constitutional and economic reform and the disintegration of the SFRY. Second, the supremacy of the federal constitution over the *Constitution of the Republic of Serbia*. These two matters are vital to understanding and construing the "reserve powers" contained in Articles 83(4), 83(5), 83(6), and 83(8) of the *Constitution of the Republic of Serbia*. The President of the Republic of Serbia never had any authority or competence to act in relation to these four provisions. These were all areas exclusively within the province of the federal institutions on the basis of the federal constitution and the principle of the paramountcy of the federal constitution, laws, legislation, regulations, etc.

Social and Political Factors in the Socialist Federal Republic of Yugoslavia

Constitutional and Economic Reform

13. The enactment of the *Constitution of the Republic of Serbia* had a dual purpose: constitutional reform and economic reform. First, it was an expression of the then-existing political landscape of the SFRY, where the steps towards secession in certain

¹⁸ IC131, slide 4.

¹⁹ IC131, slides 3-4.

republics had already begun. In order to avoid a situation where Serbia could find itself in a constitutional vacuum, the *Constitution of the Republic of Serbia* was passed in 1990. For this reason, this constitution states that Serbia is a loyal member of the federal state, while at the same time, it contains provisions which provide Serbia with the attributes of an independent state, in the event of the dissolution of the federation. Second, the constitution of 1990 brought about profound economic and social reform. New principles and new institutions were introduced which represented a break with the previous constitutional system. The constitution introduced such categories as markets, private property, equality of all forms of property, and a multi-party system, within a parliamentary form of government. The competency of the Constitutional Court was expanded, as well as the catalogue of human and civil rights.²⁰ A communal system replaced local self rule. In short, there was a radical break and departure from the previous constitutional system, which is why this constitution never uses the term “socialist”.²¹

The Disintegration of the Socialist Federal Republic of Yugoslavia

14. By the time the *Constitution of the Republic of Serbia* was promulgated on 28 September 1990, two other constituent republics of the SFRY – Slovenia and Croatia – had adopted constitutions which jeopardized the continued existence of the SFRY. The Republic of Slovenia, after adopting amendments in 1989, which proclaimed the supremacy of the republican constitution over the federal constitution, issued a declaration on the sovereignty of the Republic of Slovenia on 6 July 1990. The Republic of Croatia, on 5 September 1990, adopted a law restructuring its republican administration and establishing the Foreign Ministry of Croatia and the Ministry of Defence of Croatia. The Croatian constitution of 1990 also contained a provision which provided that Croatia would remain part of the SFRY until a new agreement was reached with other federal units or until otherwise decided by the Croatian parliament.²²

²⁰ Annex 2, P855, Article 1.

²¹ Tr.12877-12878.

²² Tr.13631.

15. The constitutional commission²³ established by the Government of the Socialist Republic of Serbia was aware of events in Slovenia and Croatia since 1989 and it had all these facts in mind when it prepared a draft Constitution of the Republic of Serbia.²⁴ This is why it is important to bear in mind the historical background of the time when interpreting the *Constitution of the Republic of Serbia*. Given the fact that the SFRY was in a state of disarray and was beginning to disintegrate, the *Constitution of the Republic of Serbia* granted powers to the Republic of Serbia not normally granted to a constituent element of a federation, on a contingency basis. These “reserve powers” were institutions that the Republic of Serbia could exercise in the event that the federation ceased to exist and function, and the Republic of Serbia became an independent state. As events unfolded, by early 1992, the SFRY ceased to exist and the FRY came into existence on 27 April 1992.²⁵ With the creation of the FRY, the Republic of Serbia remained a constituent unit of a federal state (comprising Serbia and Montenegro), whose constitution provided for the primacy of the federal constitution.²⁶

16. During this period of political and constitutional uncertainty between 1990 and 1992, the Republic of Serbia created a total of twenty ministries on the basis of Article 5 of the *Law on Ministries*,²⁷ including the Ministry of Defence, the Ministry of Foreign Affairs, and the Ministry for International Relations and Economic Development.²⁸ The creation of these three ministries in the Republic of Serbia is a reflection of what occurred in the Republic of Slovenia in 1989 and in the Republic of Croatia in September 1990. These republics had assumed federal competences and applied them to their own republican level, through their state laws. This was a form of duality between the republican bodies that operated in Slovenia and Croatia and later in Serbia, and federal bodies which were not functioning, but continued to exist until the dissolution of the FRY in April 1992.²⁹

²³ Tr.13271. Tr.13269-13273;13321-13326.

²⁴ Tr.13631.

²⁵ 1D139.

²⁶ Tr.12909-12910.

²⁷ 1D456.

²⁸ Tr.12917-12918.

²⁹ Tr.13118.

17. In 1992, when Serbia and Montenegro organised themselves into the FRY, according to its constitution, defence, foreign affairs, and foreign economic relations fell under the competence of the Federation.³⁰ The Law on Ministries 1991 was amended by the *Law on Amendments to the Law on Ministries*,³¹ which came into force on 30 August 1993. Article 5 of this Law provides: “The following shall cease to function on the day this law enters into force: The Ministry of Defence, the Ministry of Foreign Affairs, and the Ministry for Foreign Economic Relations and Commercial Development”. Thereafter, the Ministry of Foreign Affairs, the Ministry of Defence, and the Ministry of Economic Relations with Foreign Countries ceased to exist in the Republic of Serbia since they were under the jurisdiction of the FRY.³²

The Paramountcy of the Federal Constitution – Reserve Powers

18. In the light of the prevailing political climate and profound socio-political changes looming in the SFRY, a highly irregular constitutional and legal situation existed in the federation. Article 135 of the *Constitution of the Republic of Serbia* reflects this situation.³³ This provision contains “reserve powers” which were both contingent and pre-emptive. They were contingent on the federation breaking-up and the Republic of Serbia becoming an independent state. They were pre-emptive for they provided the Republic of Serbia with the ability to function as an independent state – thus avoiding a constitutional and legal vacuum – in the event of its secession from the federation.³⁴ On the other hand, for as long as the Republic of Serbia was a constituent unit of the federal state, the primacy of the federal constitution and federal legislation and institutions was maintained.³⁵

19. Article 115 of the *Constitution of the FRY* mandates the primacy of the federal constitution and federal legislation, laws, regulations, and all other enactments and institutions.³⁶

³⁰ Tr.12917-12919.

³¹ 1D142.

³² Tr.13118.

³³ Tr.12910-12911.

³⁴ Tr.12912-12914;13305-13306. 1D682,paras.2.5-2.20,2.30.

³⁵ 1D682,paras.2.7-2.8.

³⁶ 1D139, Articles 7,16,78(2)(3)(4),130 regarding federal paramountcy.

The Constitution of the Republic of Serbia: Article 135

20. Article 135 of the *Constitution of the Republic of Serbia* contains provisions regarding the relationship between the *Constitution of the Republic of Serbia* and the federal constitution, which grant primacy to the federal constitution. This provision enshrines the concept of the supremacy of the federal constitution, which was always maintained in relation to the *Constitution of the SFRY* 1974³⁷, the *Constitution of the FRY* 1992³⁸, and the *Constitutional Charter of the State Union of Serbia and Montenegro* 2003³⁹. This article expresses the loyalty of Serbia to the federation as a constituent unit in a federal state and respects the supremacy of the federal constitution. Article 135 states that all matters that are within the competence of the federal state and simultaneously of the Republic of Serbia based on its constitution of 1990, will be exercised by the federal state in line with its constitution. The federal constitution is paramount. There is no concurrent jurisdiction between the federal level and the republic level. In short, Article 135 provided Serbia with the instruments of statehood, if the federation dissolved and Serbia became an independent state, while at the same time remaining within the federation and continuing to function as a member republic.⁴⁰

21. Article 135 was first proposed by the then-President of the Republic Executive Council, Mr. Stanko Radmilović in relation to economic matters and economic development. In this sense, Article 135(2) is a defensive measure. If there were economic discrepancies, or any sort of disintegration within the Federation itself, then these provisions would take effect, but not before such time. The Republic of Serbia considered that it was entitled to adopt enactments in order to protect its interests should this mechanism of solidarity cease to function in terms of compensation.⁴¹ The “compensation” mentioned in Article 135(2) is the compensation stipulated in Article 256 of the Constitution of the Socialist Federative Republic of Yugoslavia of 1974⁴², which was in force at the time when the *Constitution of the Republic of Serbia* was being

³⁷ P1623.

³⁸ 1D139.

³⁹ 1D744.

⁴⁰ Tr.12912-12914.

⁴¹ 13310-13312.

⁴² Annex2, P1623.

adopted. The article reads, “If through an enactment pertaining to the formulation or implementation of common economic policy a federal organ has disrupted the equality of organisations of associated labour in income earning and in the use of the results of labour, or if it has disrupted the equality of the Republics and Autonomous Provinces on the unified Yugoslav market, the federal organ shall simultaneously with the formulation of common economic policy and/or the enactment of measures for its implementation, fix and ensure compensation as a component part of measures of common economic policy for the planning period concerned.”⁴³

The Constitution of the FRY: Article 115

22. The *Constitution of the FRY* was adopted on 27 April 1992⁴⁴ in order to provide a constitutional form for two federal units which did not secede from the SFRY: the Republic of Serbia and the Republic of Montenegro. The previous federal constitution from 1974 was created for a federation which had six federal units, four of which had seceded by early April 1992.⁴⁵ The purpose of the continuation of the Federation comprising two federal units was to preserve the legal personality of Yugoslavia and to formalise this union of the Republic of Serbia and Republic of Montenegro. This purpose is expressed in the preamble of this 1992 constitution.⁴⁶

23. By associating into the FRY, both Serbia and Montenegro recognised the primacy of federal institutions, that is, the federal constitution, federal law, and other federal legislation in relation to the law of each republic. Every federation in the world rests on the principle of the primacy of federal law over the law of the federal unit or the supremacy of the federal legal order in relation to federal units. This same rule applied to the Yugoslav Federation until Serbia and Montenegro both became independent and sovereign states on 21 May 2006.⁴⁷

⁴³ 1D682,para.2.7.

⁴⁴ 1D139.

⁴⁵ P1623.

⁴⁶ Tr.12878-12879.

⁴⁷ Tr.12937.

24. Article 115 of the *Constitution of the FRY*⁴⁸ expressly provides for the continued primacy of the federal constitution over the *Constitution of the Republic of Serbia*. It states that the constitutions of the republics, as well as legislation and all legal regulations of the member republics, have to be in compliance with the *Constitution of the FRY*. This provision reflects an old maxim dating back to the Swiss constitutional law, namely, that the federal legislation comes above those of the republics.⁴⁹

25. In keeping with the principle of paramountcy, the Republic of Serbia adopted implementing legislation to give effect to the primacy of the federal constitution, as well as consistency between all federal and republican laws and provisions. This was a gradual process within the constitutional systems, where dates were determined and deadlines were set by which certain laws had to be harmonized with the federal constitution. In addition, deadlines were defined for certain laws to cease to have effect. These measures were designed to provide for a smooth transition, as defined by the constitution which were to be implemented by the new constitutional laws.⁵⁰

26. Exhibit 1D358 is the *Constitutional Law on Amendments to the Constitutional Law on the Implementation of the Constitution of the Republic of Serbia*.⁵¹ Article 1 amends and extends the deadline of two years for the harmonizing the laws with the new constitution which had been previously set from the date of the promulgation to the *Constitution of the FRY* (27 April 1992). Article 4 contains corresponding language.⁵² Pursuant to this legislation, certain laws were modified, or adapted to bring them into line with the provisions of the *Constitution of the FRY*.⁵³

27. Exhibit 1D370 is *Law on the Annulment of Certain Laws and Other Regulations*.⁵⁴ This is an illustration of a situation where certain regulations cease to have effect.⁵⁵ These are examples of laws that cannot be harmonized with the new

⁴⁸ Annex 2, 1D139.

⁴⁹ Tr.12879.

⁵⁰ Tr.12879-12880.

⁵¹ Annex 2, 1D358.

⁵² Tr.12880-12881.

⁵³ Tr.12883.

⁵⁴ 1D370.

⁵⁵ Tr.12883; P1854.

constitution by simple amendments. Instead, these needed to be replaced by laws that were entirely new. This piece of legislation lists twenty five such laws that now cease to apply. Most noteworthy in relation to issues in this case is item 7 which annuls the *Law on Procedure by Republican Organs in Special Circumstances*.⁵⁶

No Power to Act

Paramountcy of the Federal Constitution - Reserve Powers

28. As previously discussed, the *Constitution of the Republic of Serbia* contains “reserve powers” which provide for institutions which would only have come within the competence of the President of the Republic of Serbia, in the event of the Republic of Serbia becoming an independent state. Articles 83(4), (5), (6), and (8) of the *Constitution of the Republic of Serbia* are examples of the “reserve powers” which could never have been exercised and were never exercised by Mr. Milutinović, during his mandate as the President of the Republic between 1997 and 2002.⁵⁷ The President of the Republic of Serbia was never competent to exercise the powers because of the primacy of the federal constitution. As reflected in Article 115 of the *Constitution of the FRY* and Article 135 of the *Constitution of the Republic of Serbia*, only federal institutions – legal and political – were competent in the areas of foreign affairs, command of the armed forces, and the proclamation of an irregular situation: a state of emergency, an imminent threat of war, or a state of war.

The Constitution of the Republic of Serbia - Article 83(4): International Relations

29. As the President of Serbia, Mr. Milutinović had no authority or competence to act to conduct affairs in the sphere of relations between the Republic of Serbia and other states and international organisations in accordance with law, pursuant to Article 83(4) of the *Constitution of the Republic of Serbia*.⁵⁸ These are “reserve powers” contained in the *Constitution of the Republic of Serbia*, which were subject to the supremacy of the federal constitution.

⁵⁶ Tr.12883-12884.

⁵⁷ Tr.12912-12914;13305-13306. 1D682,paras.2.5-2.20,2.30. Annex 2,P855,Article 72, Tr.12877.

⁵⁸ 1D682,paras.2.5-2.10; IC131, slides3-4; Tr.12900,12914-12916.

30. Federal jurisdiction in the area of international relations is exclusive pursuant to Articles 96(1), 99(1), and 77(6) of the *Constitution of the FRY*.⁵⁹ Foreign affairs was within the competence of the federal state, both in the course of the existence of the SFRY and later in the FRY.⁶⁰ This is provided for explicitly at Article 281(7) of the *Constitution of the SFRY* of 1974.⁶¹ Federal legislation in force and as amended since 1981, clearly shows that foreign relations are within the competence of federal organs. Articles 3 and 5 of the *Law on Carrying Out Foreign Affairs Tasks Within Competencies of Federal Administration Organs and Organisations* (16 October 1981)⁶² regulated foreign affairs in the SFRY. This law remained in force from 1981 until 1998. The federal organs and organisations dealing in international relations are the Federal Executive Council, which was the federal Government.⁶³ The *Law on Foreign Affairs* (4 December 1998)⁶⁴ replaced the previous law. It regulated foreign affairs and this legislation provides that foreign relations are still exclusively within the competence of the federal state, and that the federal state exercises these powers through its federal organs.⁶⁵

The Constitution of the Republic of Serbia - Article 83(5): Leading the Armed Forces and Mobilization

31. As the President of Serbia, Mr. Milutinović had no authority or competence to lead the armed forces in peacetime and in war and the popular resistance in war; order the general and partial mobilization; organize the preparations for defense in accordance with law, pursuant to Article 83(5) of the *Constitution of the Republic of Serbia*. The Republic of Serbia never had any armed forces. Up to 1992, the federal army was the Yugoslav People's Army (JNA) and during the existence of the FRY, the federal army was the VJ.⁶⁶ These are "reserve powers" contained in the *Constitution of the Republic of Serbia*, which were subject to the supremacy of the federal constitution.

⁵⁹ Annex 2, ID139.

⁶⁰ Tr.12916-12917.

⁶¹ Annex 2, P1623.

⁶² Annex 2, ID750.

⁶³ Tr.12914-12916.

⁶⁴ Annex 2, ID246, Articles 2-4.

⁶⁵ Tr.12916-12917.

⁶⁶ ID682, paras.2.33-2.34.

32. Federal jurisdiction in the area of national defence and command of the Army of Yugoslavia (“VJ”) is exclusive pursuant to Articles 77(7), 78(3), 99(9), 99(10), 133, 134, 135, and 136 of the *Constitution of the FRY*.⁶⁷

33. Pursuant to the *Law on the Army of Yugoslavia*⁶⁸, the President of the FRY commands the VJ: Articles 2, 4, 5, 6, 16, 28, 34, 46, 103, 107, 151, 168, 163, 173, 179, 204, 208, 291, 296, 316, and 318. Similarly, Articles 6, 8, 14, 40, and 67 of the *Law on Defence*⁶⁹ provides that the President of the FRY commands the VJ.

34. The *Law on Defence* makes the defence of the FRY a federal responsibility. In particular, the federal Ministry of Defence is responsible for the administrative and technical organisation and implementation of the country’s defence policy and defence system at the level of the whole FRY. Among other things, the Ministry of Defence prepares and plans general mobilisation, military service and other obligations of citizens in the defence of the country. It arranges the territory for the needs of defence, training and education, equipping and arming, organising communications and cryptographic data protection, scientific research work and other activities important for the defence of the country.⁷⁰

35. In the period when the SFRY existed, the federal Yugoslav People’s Army (JNA) was mobilized and under the command of federal institutions.⁷¹ Pursuant to the *Constitution of the SFRY*, the Assembly of the SFRY decided on “war and peace”.⁷² If, however, the Assembly was unable to convene, the Presidency of the SFRY was authorised to proclaim a state of war.⁷³ The President of the Republic was the Supreme Commander of the Armed Forces of the SFRY for as long as that position existed (Josip Broz Tito held the position of President for life). Once the position of the President ceased to exist, (Tito died in 1980) a collective body of eight members, the Presidency of the SFRY became the highest organ exercising command and control over the SFRY

⁶⁷ Annex 2,1D139.

⁶⁸ Annex 2,P984.

⁶⁹ Annex 2,P985.

⁷⁰ Annex 2,P985,Articles 43-48.

⁷¹ 1D682,paras.2.31-2.33. Annex 2,P1623,Article 281(6).

⁷² Annex 2,P1623,Article 283(5).

⁷³ Annex 2,P1623,Article 316(1).

armed forces, with the President of the Presidency commanding the SFRY armed forces on behalf of the Presidency.⁷⁴

36. On the basis of the principle of paramountcy, pursuant to Article 115 of the *Constitution of the FRY*, federal institutions had exclusive jurisdiction over national defence, mobilisation, and command of the VJ. According to the maxim *lex superior derogat inferoiori* the federal constitution supersedes the *Constitution of the Republic Serbia* as a federal unit of the Yugoslav federation.⁷⁵ For example, on the issue of mobilisation, Article 99(9) of the *Constitution of the FRY* takes precedence over Article 83(5) of the *Constitution of the Republic of Serbia*. In 1999, when the NATO bombing campaign started in March, the Federal Government declared a state of an imminent threat of war and a state of war and mobilized the army. The President of the Republic of Serbia was not authorized or competent to declare a state of imminent threat of war or a state of war or to order general or partial mobilisation.⁷⁶

The Constitution of the Republic of Serbia - Article 83(6) and Article 83(8): Declaring an Irregular Situation

37. As the President of Serbia, Mr. Milutinović had no authority or competence to proclaim an irregular situation: a state of emergency, a state of imminent threat of war, or a state of war, pursuant to Articles 83(6) and 83(8) of the *Constitution of the Republic of Serbia*.⁷⁷ These are “reserve powers” contained in the *Constitution of the Republic of Serbia*, which were subject to the supremacy of the federal constitution.

38. Federal jurisdiction in the area of declaring an irregular situation – a state of emergency, a state of imminent threat of war, or a state of war – is exclusive pursuant to Articles 78(3) and 99(10) of the *Constitution of the FRY*.⁷⁸ Article 78 regulates the jurisdiction of the Federal Assembly. Among other things, the Assembly decides on the change of borders of Yugoslavia, it decides on war or peace, it declares the state of war, the state of an imminent threat of war, and a state of emergency. All three kinds of these

⁷⁴ Annex 2, P1623, Articles 313(3), 328(2)(6), 335(3).

⁷⁵ Tr.12937-12938.

⁷⁶ Tr.12937-12938.

⁷⁷ 1D682, paras.2.5-2.10; IC131, slides 3-4; Tr.12900, 12914-12916, 12921-12922.

⁷⁸ Annex 2, 1D139.

irregular circumstances fall within the jurisdiction of the Federation, and it exercises that through the Federal Assembly.⁷⁹ Alternatively, Article 99(10) deals with these irregular states, if the Federal Assembly is unable to meet. In these circumstance, the competency for declaring an irregular state falls within the purview of the Federal cabinet, upon hearing the opinion of the President of the FRY, as well as the Speaker of the Parliament.⁸⁰

39. Articles 78(3) and 99(10) of the *Constitution of the FRY* are also the constitution basis for declaring the end to an irregular situation.⁸¹

40. Exhibit P1664⁸² is the *Proclamation of Imminent Threat of War* (23 March 1999) adopted by the Federal Government pursuant to Article 99(10) of the *Constitution of the FRY*. The Federal Assembly was unable to meet and the decision on proclaiming a state of imminent threat of war was adopted by the Federal Government.⁸³ Exhibit P991 is the *Proclamation of a State of War* (24 March 1999) adopted by the Federal Government pursuant to Article 99(10). Exhibit P1311 is the *Decision to End the State of War* (24 June 1999) adopted by the Federal Assembly pursuant to Article 78(3) of the *Constitution of the FRY*.⁸⁴

No Implementing Legislation

The Constitution of the Republic of Serbia - Article 83(10): Conferring Decorations and Awards

41. The competence of the President of the Republic to confer decorations and awards “as for provided by law” pursuant to Article 83(10) was never been exercised because no law establishing decorations and awards in the Republic of Serbia has ever been adopted. In the SFRY there existed a federal law on decorations⁸⁵ which lapsed on the day the Constitution of the FRY entered into force.⁸⁶ In 1998, the *Law on Decorations of the*

⁷⁹ Tr.12919.

⁸⁰ Tr.12919-12920.

⁸¹ Tr.13300-13302.

⁸² P992.

⁸³ Tr.12920.

⁸⁴ Tr.12920-12921.

⁸⁵ The *Law on Decorations of the Socialist Federative Republic of Yugoslavia* (Official Gazette of the Socialist Federative Republic of Yugoslavia no. 10/86). See, P986, Article 13(13) and 1D247, Item 644.

⁸⁶ P986, Article 13(13).

Federal Republic of Yugoslavia was adopted (Official Gazette of the Federal Republic of Yugoslavia no. 59/98, 21/2001). This legislation is valid in accordance with Article 96(7) of the *Constitution of the FRY*. The President of the FRY “confers decorations and honours of the Federal Republic of Yugoslavia, as provided for by federal statute”. Furthermore, in the State Union of Serbia and Montenegro, created in 2003, pursuant to Article 26(6) of the Constitutional Charter of the State Union of Serbia and Montenegro 2003⁸⁷, the President (of the State Union) “*confers awards and other decorations*” on the basis of the *Law on Decorations of the Federal Republic of Yugoslavia* that was still in force and on the basis of which awards again began to be conferred after a lapse of six years. The President of the Republic of Serbia has never been able to act pursuant to Article 83(10).⁸⁸ To this day, the President of the Republic of Serbia is still not able to confer decorations or awards because of the absence of implementing legislation.⁸⁹

Power to Act upon Agreement of a Majority in Parliament

42. Pursuant to Articles 83(1)(2)(3), the President of the Republic of Serbia has limited authority as an organ of stable, non-operational executive, in contrast to the Government, which represents a changeable (depending on whether there is confidence by the parliamentary majority) and operational executive.⁹⁰ Pursuant to Article 83(7), the President of the Republic of Serbia has the authority and competence to issue decrees, contingent up the declaration of an irregular circumstance (a state of imminent threat of war or a state of war) by federal institutions, and subject to confirmation of his acts by the National Assembly of the Republic of Serbia, when the irregular circumstance ceases to exist.

The Constitution of the Republic of Serbia - Article 83(1): Candidates for Prime Minister

43. Article 83(1) of the *Constitution of the Republic of Serbia* provides for the role the President of the Republic plays on the appointment of the prime minister of the Republic.

⁸⁷ 1D744.

⁸⁸ 1D682, paras.2.13-2.15.

⁸⁹ Tr.12907;13342-13343.

⁹⁰ 1D682, paras.2.3,2.16. The analysis of the post of President of the Republic of Serbia as a “stable, non-operational executive” is the second of the three categories identified in Professor Marković’s expert opinion, paras.2.16-2.24.

44. The President of the Republic has little or no autonomy under Article 83(1). It is only after hearing the opinion of representatives of the majority in the National Assembly that the President of the Republic proposes a person who will form the new government (a candidate for the post of prime minister). This limits the President in two ways: he has to propose a candidate from the ranks of the parliamentary majority and then he has to propose a person who will receive the support of the majority in the National Assembly. The decision on who will have a majority in parliament is rendered by the electorate in parliamentary elections or by parliamentary parties through forming coalitions. It is this majority that decides on the candidate for the post of prime minister. If the President of the Republic ignores either of these two factors while proposing a candidate for the post of prime minister, his proposal would never be accepted in parliament. It may be argued that if the President of the Republic proposed a candidate who has not been put forward by the majority, he may be obstructing the formation of the government and, consequently, the procedure for his recall could be initiated in the National Assembly (Article 88(2), *Constitution of the Republic of Serbia*). What is more, the President of the Republic has no influence on proposals for candidates for members of the Government – deputy prime ministers and ministers – because this power is exclusively in the hands of the candidate for the post of prime minister (mandatary), while the National Assembly renders the final decision.⁹¹

The Constitution of the Republic of Serbia - Article 83(2): Candidates for the Constitutional Court

45. Article 83(2) sets out the role the President of the Republic of Serbia plays in the appointment of the president and judges of the Constitutional Court.

46. The President of the Republic also has a very small degree of autonomy while proposing candidates for the president and the judges of the Constitutional Court pursuant to Article 83(2). The final decision on appointees rests with the National Assembly. As a practical matter, this means that before sending official proposals to the National Assembly, the President of the Republic must consult representatives of the parliamentary majority and the Government. Without their prior approval, the proposal

⁹¹ 1D682, paras. 2.16-2.18; Tr. 12897, 12932-12934.

of the President of Republic will certainly not receive the necessary majority in the National Assembly. Even though it is the professional qualities of the candidate that are of the utmost importance, the political parties that have a majority in the National Assembly – because of the nature of the function of the Constitutional Court, which also includes an element of political decision-making – seek to have their own candidates appointed. In sum, the National Assembly is not bound by the proposals for the candidates for the president and judges of the Constitutional Court put forward by the President of the Republic. A candidate proposed by the President of the Republic will not be appointed, if the parliamentary majority does not accept that person.⁹²

The Constitution of the Republic of Serbia - Article 83(3): Promulgation of Laws by Ordinance

47. Pursuant to Article 83(3) of the *Constitution of the Republic of Serbia*, the President of the Republic promulgates laws by ordinance (“*ukaz*”). Article 84 stipulates that the President of the Republic must promulgate a law that has been adopted by the National Assembly, subject to a seven-day suspensive veto, after which the President is duty bound to promulgate the law.

48. The promulgation of a law is a declarative act, as opposed to the adoption of a law by the National Assembly which is a constitutive act. In essence, the promulgation of a law involves two things: 1) it is confirmation by the President of the Republic that the law has been adopted by the legislative body and that the procedure envisaged by the Constitution and the rules of procedure of the Assembly have been followed fully; 2) it is a statement by the President of the Republic that the law has become effective and that it is to be implemented. This is why an ordinance of promulgation (“*ukaz*”) issued by the President of the Republic is “a document which is to serve as a certificate of baptism to the law”.⁹³

49. Pursuant to Article 83(3), the President of the Republic must promulgate a law that has been adopted in the National Assembly. This power is not his discretionary right

⁹² ID682, paras. 2.19-2.20; Tr. 12897-12890; 13297-13298.

⁹³ ID682, para. 2.21; IC132 “Ukaz” (proclamation/ordinance) and “Uredba” (decree), slide 4; Tr. 12900, 12941-12943.

or the result of his own free decision.⁹⁴ Under Article 84, - the suspensive veto - the President of the Republic may return a law adopted in the National Assembly to the Assembly for a second vote. However, the Constitution explicitly says that “the President of the Republic shall be bound to promulgate a law passed for the second time in the National Assembly” (Article 84 (2)).⁹⁵ A law sent back to the National Assembly under Article 84 requires the vote of a simple majority. Article 80 reads: “The National Assembly decides by a majority of votes at a meeting attended by the majority of the national delegates unless the constitution stipulates a special majority to be used.” Article 84 does not provide for a special majority and therefore the same sort of majority that previously adopted the temporarily vetoed law in the National Assembly is required.⁹⁶

50. The suspensive legislative veto envisaged by the *Constitution of the Republic of Serbia* is the weakest form of the veto mechanism: 1) it is only a delaying veto (an absolute veto is in fact a legislative sanction) postponing a decision on a law; this decision is made by a legislative organ, that is to say, the National Assembly; 2) this veto can be removed through the re-adoption of a vetoed law by the same majority, which means that there does not have to be a greater majority of votes than the one by which the vetoed law has already been adopted once in parliament; 3) by this veto, a law is returned to the National Assembly only to be put to a vote again (to be decided on) and not to be reconsidered (discussed) and then put to a vote (decided on); 4) this is a veto which the President of the Republic can use within the unrealistically short period of seven days which is counted from the day the law is adopted in the National Assembly and not from the day it is submitted to the President of the Republic.⁹⁷ This is the shortest deadline amongst comparative constitutional provisions in countries whose constitutions envisage these types of vetos.⁹⁸

The Constitution of the Republic of Serbia - Article 83(7): Decrees

⁹⁴ 1D682,para.2.22.

⁹⁵ 1D682,para.2.22; Tr.12953-12955,13339.

⁹⁶ Tr.13339-13340.

⁹⁷ Tr.13339.

⁹⁸ 1D682,para.3.10.

51. Pursuant to the principle of the paramountcy of the federal constitution, Article 83(7) of the *Constitution of the Republic of Serbia* becomes operative when an irregular situation (an imminent threat of war or a state of war) is declared by either the Federal Assembly or the Federal Government.⁹⁹ The authority and competence of the President of the Republic of Serbia and his ability to act is therefore contingent on the decision of a federal institution. Furthermore, Article 83(7) provides that the President of the Republic is competent to adopt instruments that regulate matters falling within the competence of the National Assembly only during a state of war or imminent threat of war. As soon as the irregular situation ceases to exist, the President is duty-bound to present those instruments to the National Assembly for confirmation.¹⁰⁰

52. During an irregular situation, the usual division of powers between the Government and the National Assembly pursuant to Article 9 of the *Constitution of the Republic of Serbia* is temporarily disrupted.¹⁰¹ The Government takes over legislative power from the National Assembly, subject to the ratification of all instruments adopted during the irregular situation, after it ceases.¹⁰² Article 83(7) provides that the President “shall” adopt instruments proposed by the Government during a state of war.¹⁰³ The constitution does not envisage the situation where the President can decline to adopt instruments proposed by the Government. It follows from the interpretation of the constitution that had the constitution wanted to confer a discretionary power on the President, it would have stated in the constitution that he “may” adopt an instrument proposed by the Government.¹⁰⁴ The President of the Republic acts in compliance with the constitution when he makes it possible for all the various branches of government to carry out their particular competencies.¹⁰⁵

53. In 1999, a state of war existed in the FRY from 24 March until 24 June.¹⁰⁶ During this period, pursuant to Article 83(7), Mr. Milutinović issued sixteen decrees, at

⁹⁹ Annex 2, ID139, Articles 78(3), 99(10).

¹⁰⁰ Tr.12902.

¹⁰¹ Tr.13293-13294.

¹⁰² Tr.13629.

¹⁰³ Tr.13219. Article 87(3) of the Constitution of the Republic of Serbia uses the word “*donosi*” which is translated as “shall” adopt instruments.

¹⁰⁴ Tr.13293-13294.

¹⁰⁵ Tr.13628-13629.

¹⁰⁶ P991; P1311.

the proposal of the Government.¹⁰⁷ Each decree was formulated by the Government and sent to the President for signing by one of the deputy prime ministers of the Government. Each decree was within the remit of the republican Government¹⁰⁸ and was published in the Official Gazette of the Republic of Serbia.¹⁰⁹

54. The day after the cessation of the state of war, Mr. Milutinović submitted these decrees for ratification to the first session of the National Assembly held after the war, through the President of the National Assembly, Mr. Dragan Tomic.¹¹⁰ The National Assembly confirmed all these wartime decrees and declared them null and void, as the state of war had ceased.¹¹¹

Power to Act

55. Pursuant to the *Constitution of the Republic of Serbia*, the President of the Republic is authorized and competent to act of his accord under Articles 83(9) and 83(11).

The Constitution of the Republic of Serbia - Article 83(9): Pardons

56. Pursuant to Article 83(9), pardon (granting pardon) is a sort of a quasi-judicial¹¹² constitutional power of the President of the Republic, subject to significant legal restrictions (*Law on Pardon*, Official Gazette of the Republic of Serbia no. 49/95). First, the President of the Republic of Serbia grants pardon “for crimes provided for by the laws of the Republic of Serbia” (Article 1 of the *Law on Pardon*). Pardon proceedings are initiated either in response to an application filed by the convicted person or *ex officio*. In the latter case, they are initiated by the Minister of Justice (Articles 4 and 11 of the *Law on Pardon*). A pardon application is filed with the court which rendered the first-instance judgement and this court forwards the application for pardon to the Ministry of Justice, together with its opinion on the merits of the application. After considering

¹⁰⁷ 1D144(P933);1D153(P933);D147(P933);1D150(P933);1D158;1D161;1D163; 1D166; 1D169;1D172;1D175;1D178;1D181;1D478;1D187;1D189.

¹⁰⁸ Tr.12927.

¹⁰⁹ Tr.12925.

¹¹⁰ 1D190; Tr.12931.

¹¹¹ 1D192; 1D682,paras.2.28-2.29.

¹¹² This is what this type of power of a head of state is called in theory just as the power of a parliament to grant pardon for crimes or to impeach is quasi-judicial.

and assessing the application, the Minister of Justice sends the entire file and his opinion, to the President of the Republic of Serbia (Articles 9 and 10 of the *Law on Pardon*). A pardon application cannot be filed before a final decision is rendered, that is to say, before all legal remedies envisaged by the law have been exhausted (Article 5, paragraph 3 of the *Law on Pardon*).¹¹³

The Constitution of the Republic of Serbia - Article 83(11): Establishing Services

57. Pursuant to Article 83(11) of the *Constitution of the Republic of Serbia*, the President is able to establish professional and other kinds of services to conduct affairs falling within his jurisdiction. The President is a sole individual – not a collegium of persons. Article 83(11) provides that the President may create a range of technical services and bodies. The National Assembly (Article 82) and the Government (Article 90(9)) have the same power. The President of the Republic is limited by the funds allocated to him by the state budget which is approved by the National Assembly at the proposal of the Government.¹¹⁴ Thus, the President needs to mind the budget that is at his disposal. These are the realistic limits imposed on the setting up these technical services.¹¹⁵

58. In the Presidency, Mr. Milutinović had a very small staff of five people that worked in morning and afternoon shifts.¹¹⁶

THE PRESIDENT OF THE REPUBLIC OF SERBIA AND THE NATIONAL ASSEMBLY

59. The authority and competence of the President of the Republic in relation to the National Assembly is exceptionally limited.¹¹⁷ He does not have the right to any legislative initiative, which means that he cannot influence the legislative policy of parliament or the Government, especially in view of the fact that he does not have the right to address parliament at the beginning of its work or at the start of his own mandate

¹¹³ The right to pardon does not include a right to abolition or a right to have pre-trial or misdemeanour proceedings suspended. 1D682, paras.2.11-2.12; Tr.12906-12907.

¹¹⁴ 1D682, para.2.37.

¹¹⁵ Tr.12908.

¹¹⁶ 1D741, paras.5-14; Tr.13722-13725.

¹¹⁷ Tr.12983-12984.

(“message au Parlement” under Article 18 of the Constitution of the French Republic of 1958).¹¹⁸ The relationship between the President of the Republic and the National Assembly is regulated by two constitutional provisions: Article 84 and Article 89.

The Constitution of the Republic of Serbia - Article 84: Suspensive Legislative Veto

60. As previously reviewed in relation to Article 83 of the *Constitution of the Republic of Serbia*, the President of the Republic promulgates laws by ordinance (“*ukaz*”), subject to the provisions of Article 84. The provisions of the suspensive veto under Article 84 greatly restrict the influence of the President of the Republic on the fate of the law about which he has reservations. The seven-day time period from the date of the adoption of a law by the National Assembly and the requirement that the President promulgate the law passed for a second time by a simple majority in the National Assembly renders the suspensive veto a mere formality. This provision confers little or no power on the President of the Republic.¹¹⁹

The Constitution of the Republic of Serbia - Article 89: Dissolution of the National Assembly

61. Pursuant to Article 89, the act of dissolution of the National Assembly, which may not occur during a state of war, an imminent threat of war, or a state of emergency, is divided between the Government and the President of the Republic. The Government must provide the President with a reasoned written proposal for the dissolution of the National Assembly and on the basis of this proposal, the President of the Republic has the discretion to decide to dissolve the National Assembly. The act of the dissolution of the National Assembly has the following three characteristics: 1) it is a so-called political act, an act of government (*acte de gouvernement*) which, according to the French typology of acts, is not subject to an assessment of legality by a court (according to the American doctrine of the self-restriction of courts, a court does not resolve political issues); 2) it is an omnibus or complex act because two or more state organs participate in its adoption and two or more equal wills are needed for its adoption; 3) it is a discretionary act on the part of the President.¹²⁰

¹¹⁸ 1D682,para.3.1.

¹¹⁹ 1D682,paras.3.1-3.10.

¹²⁰ 1D682,paras.3.11-3.13;Tr.12983-12984.

The Constitution of the Republic of Serbia - Article 132(1): Amendments to the Constitution

62. Pursuant to Article 132(1), no less than 100,000 voters, no less than 50 deputies from the National Assembly, the President of the Republic, or the Government may propose an amendment to the constitution. The President of the Republic has a so-called constituent initiative leading to an amendment of the constitution. This means that he can only propose a constitutional amendment. This is a mechanism that also exists in the constitution of the 5th French Republic from 1958, where the President does not have a legislative initiative but has a constituent one. The proposal to amend the constitution initiates the procedure. Pursuant to Article 132(2), the National Assembly must decide by a two-thirds majority whether or not to accept the proposed amendment. Then, the final amendment to the constitution must be adopted at a constituent referendum by an absolute majority of registered voters. Once an amendment is adopted, it is promulgated by a decision of the National Assembly.¹²¹

THE PRESIDENT OF THE REPUBLIC OF SERBIA AND THE GOVERNMENT

63. The relationship between the President of the Republic and the Government is the classic relationship between the head of state and the Government in the parliamentary system of governance. The Government stems from the parliamentary majority and answers to it politically for its work. The majority in parliament determines who members of government will be and for how long (except in cases when the mandate of the Government is terminated *ex constitutione*). Article 9(3) expressly states that “executive power” is vested in the Government. The President of the Republic does not have constitutional powers vis-à-vis the Government. He can propose the prime minister designate, but the decision on who becomes prime minister is made by parliamentary election. The President of the Republic has no authority over the Government. He cannot chair Government sessions, sign Government enactments, or issue executive decrees (“*uredba*”). He cannot decide on the establishment and dissolution of Government, ministries, and agencies. There is, however, close interplay between the

¹²¹ 1D682, paras. 2.23-2.24; Tr. 12975-12976.

Government and the National Assembly. The National Assembly chose the Government, and the Government is exclusively responsible to the National Assembly for its work.¹²²

The Constitution of the Republic of Serbia - Article 85: Requests to the Government

64. Pursuant to Article 85, the President of the Republic may request the Government to state its positions concerning certain issues within its jurisdiction. However, the President of the Republic cannot order the Government to perform certain tasks falling within its jurisdiction. He has no influence on the Government regarding its views or the ability to have the Government relinquish or change its positions. He cannot impose any sanctions on the Government, such as recalling or replacing a member of the Government.¹²³

65. Pursuant to Article 19 of the *Law on Government of the Republic of Serbia*¹²⁴, the President may make a request of the Government. The Government either relays its views to the President of the Republic about certain issues falling within its jurisdiction or provides him with information on these issues. The President of the Republic has no influence over the quantity or exhaustiveness of the information provided by the Government nor does he have a service at his disposal to check its accuracy or veracity.¹²⁵ This 48-hour period is one that cannot be shorter, and it is there for the benefit of the Government, not for the benefit of the President. The Government has to study the request and the relevant ministry within the sphere of whose competence the position falls must prepare a response. Thus, the Government prepares its position, and presents it to the President of the Republic.¹²⁶

THE PRESIDENT OF THE REPUBLIC OF SERBIA AND STATE ADMINISTRATION

66. According to the *Constitution of the Republic of Serbia*, the President of the Republic has no power with regard to the state administration nor do state administration

¹²² 1D682 paras.3.14-3.17;Tr.12984-12985.

¹²³ 1D682,paras.3.18-3.19.

¹²⁴ Annex 2,P1862.

¹²⁵ 1D682,para.3.19.

¹²⁶ Tr.12987-12988.

organs have any obligations towards the President of the Republic.¹²⁷ Exhibit P1823 is the *Law on State Administration*. The collective superior of the state administration is the Government or the cabinet, which is headed by the prime minister. The Government has strong organisational powers (to set principles for the internal organisation of ministries and other administration organs and special organisations, appoint and dismiss officials in ministries, other administration organs and special organisations), financial powers (to propose the law on the budget) and control powers (to monitor the work of the ministries, other administration organs and special organisations, to annul or abrogate their regulations which are in contravention of the law or regulation that it has passed). By a Government decree (“*uredba*”) it establishes the principles for the internal organisation of ministries and other organs of administration and special organisations.¹²⁸

67. The relationship between the President of the Republic and the entire state administration is statutory and not constitutional. While the powers of the President of the Republic and the National Assembly can be determined only by the Constitution, because both these organs stem from direct elections, the powers of the Government can be determined both by the Constitution and law. Laws can determine the relationship between the individual ministries and the President of the Republic, but they cannot expand the constitutional powers of the President of the Republic.¹²⁹ In 1999, the relationship between the President of the Republic and the Ministry of the Interior was governed by two laws: the *Law on Internal Affairs*¹³⁰ and the *Law on Ranks of Members of the Ministry of the Interior*.¹³¹

The Law on Internal Affairs

68. In conducting internal affairs, the legal principle of concentration and centralization to the advantage of the Ministry of the Interior is applied, pursuant to Articles 1, 6, 7, 8 and 33 of the *Law on Internal Affairs*.¹³² Article 7 confirms the

¹²⁷ Tr.12989.

¹²⁸ 1D682,para.3.21;Tr.12989-12990.

¹²⁹ 1D639.

¹³⁰ P1737.

¹³¹ 1D237. 1D682, para.3.22. Both the *Law on Internal Affairs* and the *Law on Ranks of Members of the Ministry of the Interior* are no longer in force. 1D639.

¹³² Annex 2,P1737; 1D682,paras.3.23-3.24.

individual principle of the organisation of the Ministry of the Interior. The Minister has all the powers of the ministry, and he prescribes the manner in which work in the ministry will be done, and he issues instructions in this respect. The Minister has broad discretion in running the ministry within the parameters set by the law.¹³³

69. The *Law on Internal Affairs*, mentions the President of the Republic at Article 9 and Article 17. In Article 9, the President of the Republic and the National Assembly may make a joint and simultaneous request to the Minister of the Interior to submit a report on the work of the Ministry of the Interior and on the security situation in the Republic of Serbia.¹³⁴ The rationale behind having a report from the Minister of the Interior submitted to the National Assembly is clear. If the Assembly is not satisfied with the report, it can raise the question of political responsibility of the Minister of the Interior proposing a vote of confidence in the Minister. This is consistent with the constitutional powers and position of the National Assembly. It “elects and dismisses” the Prime Minister, Deputy Prime Ministers and ministers in the Government¹³⁵ and legislates for “the organisation and competence of ministries, their administrative organs, and special organisations”.¹³⁶

70. On the other hand, there is no apparent rational constitutional or legal basis in submitting such a report to the President of the Republic. He does not have at his disposal any constitutional, statutory, or other authority that would allow him to hold members of the Government accountable, including the Minister of the Interior.¹³⁷ In addition, Article 9 of the *Law on Internal Affairs* provides for a different set of circumstance from those contemplated in Article 85 of the *Constitution of the Republic of Serbia*.¹³⁸ The latter concerns a request from the President to the Government to state its position on certain issues falling within its jurisdiction. The former refers to the report from only one ministry, based on the joint and simultaneous request of the National Assembly and the President. It is the Minister who submits such a report directly to the

¹³³ Tr.12990-12991.

¹³⁴ 1D682,paras.3.25,3.28; Tr.13346.

¹³⁵ Annex 2,P855,Article 73(10).

¹³⁶ Annex 2 P855,Article 94(5). 1D682,paras.3.26-3.27.

¹³⁷ 1D682,paras.3.26-3.27.

¹³⁸ Annex 2,P855,Article 85.

Assembly and the President of the Republic. The position of the Government, according to Article 85 of the *Constitution of the Republic of Serbia*, is the position of the entire cabinet collectively, adopted at a session of the cabinet and then forwarded to the President of the Republic. By contrast, pursuant to Article 9 of the *Law on Internal Affairs*, a report is sent by the Minister to the National Assembly and the President of the Republic.¹³⁹ However, Article 9 of the *Law on Internal Affairs* may be *ultra vires* the *Constitution of the Republic of Serbia* in relation to the President of the Republic. The powers of the President are an exclusively constitutional category, which cannot be amplified by law.¹⁴⁰

71. The only other provision in the *Law on Internal Affairs* that mentions the President of the Republic is Article 17, in connection with a state of emergency. This provision refers to a state of emergency, which according to Article 83(8) of the *Constitution of the Republic of Serbia*, may be proclaimed by the President at the proposal of the Government. However, as discussed above, Article 83(8) is one of the “reserve powers”, which was subject to the supremacy of the federal constitution and federal institutions. The Republic of Serbia was only authorised to introduce a state of emergency, in line with its regulations, after the adoption of the *Constitutional Charter of the State Union of Serbia and Montenegro 2003*¹⁴¹, when the FRY ceased to exist and the state union of the Republic of Serbia and the Republic of Montenegro was created.¹⁴²

The Law on the Ranks of the Members of the Ministry of the Interior

72. Pursuant to Article 6 of the *Law on the Ranks of Members of the Ministry of the Interior*¹⁴³, the President of the Republic was competent to act in two regards: first, he promotes by ordinance (“*ukaz*”) an authorised official with a senior rank (minimum rank of Colonel) to the rank of General or an authorised official with the rank of General to a higher rank of General (Article 6(1) and second, after persons have completed basic studies at the Police academy, by ordinance (“*ukaz*”), he assigns and promotes to the

¹³⁹ Tr.12992.

¹⁴⁰ 1D639.

¹⁴¹ 1D744.

¹⁴² 1D682, paras.3.29-3.31.

¹⁴³ Annex 2, 1D237.

initial rank of 2nd Lieutenant (Article 6(2)). Promotions in rank pursuant Article 6(1) concern routine promotions to the rank of General, as prescribed by law. The conditions required for the promotion to a higher rank, including the rank of General, are regulated by Articles 7 and 8 of the *Law on Ranks of Members of the Ministry of the Interior*. In these cases, the promotion is simply an act complying with conditions regulated by law and the declarative ordinance on promotion (“*ukaz*”) is only a formality.¹⁴⁴ The promotion in rank is conferred by operation of the law, not by the President of the Republic.¹⁴⁵

73. Likewise, Article 6(2) of the Law on the Ranks of Members of the Ministry of the Interior provides for a promotion, prescribed by law, to the rank of Police 2nd Lieutenant for students who have graduated from the Police Academy. This is done by a declarative enactment or ordinance on promotion (“*ukaz*”). The act of promoting graduates to the rank of Police 2nd Lieutenant only confirms the fact that they graduated from the Police Academy, thus earning the right granted to them by law. They are not awarded a rank by the President of the Republic, but by the operation of the law.¹⁴⁶

74. On the other hand, pursuant to Article 10 of the *Law on the Ranks of Members of the Ministry of the Interior*, the President of the Republic was expressly granted a discretionary power concerning an “exceptional promotion”. The President of the Republic could only accept or reject the recommendation for an exceptional promotion to the rank of General or higher rank of General by the Minister of the Interior. In other words, he could not act independently, without a recommendation of the Minister of the Interior.¹⁴⁷

75. A promotion to the rank of General does not mean that this individual is being appointed to a certain position in the Ministry of the Interior. The rights, duties, and competencies of the members of the Ministry of the Interior are established in accordance

¹⁴⁴ IC132,slide 4; Tr.12941-12943.

¹⁴⁵ 1D682,paras.3.41-3.42.

¹⁴⁶ Annex 2,1D237. 1D682,paras.3.41-3.42.

¹⁴⁷ Annex 2,1D237. 1D682,paras.3.34-3.35.

with the law, internal regulations of the ministry, or by the Minister.¹⁴⁸ The Government appoints officials of the Ministry of the Interior, the deputy (according to the current law, also the state secretary) and the Assistant Minister.¹⁴⁹ There is no requirement that individuals in these positions hold the rank of General, or any rank at all. A former assistant minister of the interior held no rank while in that position.¹⁵⁰ Pursuant to Article 6(3) of the *Law on the Ranks of Members of the Ministry of the Interior*, all other appointments to the Ministry of the Interior, apart from the aforementioned, are made by the Minister or authorised senior officers.¹⁵¹

76. Ranks in the Ministry of the Interior were introduced only after the *Law on the Ranks of Members of the Ministry of the Interior* came into effect in 1996. Persons who were promoted to the rank of General by the President of the Republic do not have to account for their work to the President of the Republic. They are responsible exclusively to the Minister of the Interior or the Government, depending on which area of work they are assigned to or to which position they are appointed.¹⁵²

Decision of the Constitution Court of the Republic of Serbia, 12 June 2003

77. The Constitutional Court of Serbia has declared, *inter alia*, Article 6, Article 10, Article 15, and Article 17 (in part) the *Law on the Ranks of Members of the Ministry of the Interior* unconstitutional.¹⁵³ The Court ruled that the competence and authority of the President of the Republic derive only from the constitution and they cannot be expanded by legislation. The provisions permitting the President of Serbia to award a rank – both as prescribed by law under Article 6 and on the recommendation of the Minister under Article 10 – were declared unconstitutional, as being contrary to the *Constitution of the Republic of Serbia*.¹⁵⁴

THE PRESIDENT OF THE REPUBLIC OF SERBIA AND THE ARMY OF YUGOSLAVIA (“VJ”)

¹⁴⁸ See, P1737, Articles 1,6,7,8(2),15,18(4),19(4),28,30,33,35,40(2),51(3),63,69,70.

¹⁴⁹ P1823, Article 46.

¹⁵⁰ Tr.12997-12998.

¹⁵¹ Annex 2, 1D237, 1D682, paras.3.37-3.38.

¹⁵² 1D682, para.3.40.

¹⁵³ 1D639.

¹⁵⁴ Tr.12876-12877;12945-12951.

78. As previously discussed in relation to the principle of the supremacy of the federal constitution¹⁵⁵ and Article 83(5) of the *Constitution of the Republic of Serbia*,¹⁵⁶ federal jurisdiction in the area of national defence and the command of the VJ is exclusive. This is established in both the federal constitution and federal legislation. The relevant provisions of the *Constitution of the FRY* are Articles 77(7), 78(3), 99(9), 99(10), 133, 134, 135, and 136. The relevant federal legislation is the *Law on the Army of Yugoslavia*, and the *Law on Defence*. In particular, these laws expressly state that the President of the FRY commands the VJ: *Law on the Army of Yugoslavia*: Articles 2, 4, 5, 6, 16, 28, 34, 46, 103, 107, 151, 168, 163, 173, 179, 204, 208, 291, 296, 316, and 318¹⁵⁷ and the *Law on Defence*: Articles 6, 8, 14, 40, and 67¹⁵⁸.

79. The *Law on Defence* provides that the defence of the FRY is a federal responsibility.¹⁵⁹

80. The relations between the President of the Republic of Serbia and the VJ may be established solely through the *ex officio* membership of the President of the Republic of Serbia in the Supreme Defence Council pursuant to Article 135 of the *Constitution of the FRY*.¹⁶⁰

¹⁵⁵ Annex 2,1D139, Article 115;P855,Article 135.

¹⁵⁶ Annex 2,P855.

¹⁵⁷ Annex 2,P984.

¹⁵⁸ Annex 2,P985.

¹⁵⁹ Annex 2,P985, Articles 43-48.

¹⁶⁰ 1D682,paras.3.44-3.61.

ANNEX 2

Excerpts

- P855 Constitution of the Republic of Serbia (1990)**
- 1D139 Constitution of the FRY (1992)**
- 1D358 Constitutional Law on Amendments to the Constitutional Law on the Implementation of the Constitution of the Republic of Serbia (1992)**
- P1623 Constitution of the SFRY (1974)**
- 1D140 Law on All People's Defence (1982)**
- 1D71 Law on Amendments to the Law on All People's Defence (1991)**
- 1D750 Law on Carrying Out Foreign Affairs Tasks Within Competencies of Federal Administration Organs and Organisations (1981)**
- 1D246 Law on Foreign Affairs (1998)**
- P984 Law on the Army of Yugoslavia (1994)**
- P985 Law on Defence (1994)**
- P1862 Law on the Government of the Republic of Serbia (1991)**
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P855 Constitution of the Republic of Serbia (1990)

Article 9

- 1) Constituent and legislative power is vested in the National Assembly.
- 2) The Republic of Serbia is represented and its State unity symbolized by the President of the Republic.
- 3) Executive power is vested in the Government.
- 4) Judicial power is vested in the courts.
- 5) The protection of constitutionality and legality, in accordance with the Constitution, is vested in the Constitutional Court.

Article 73

The National Assembly shall:

- 10) elect and dismiss: the president and vice-presidents of the National Assembly; the prime minister, deputy prime ministers and ministers in the Government; the president and justices of the Constitutional Court, the Supreme Court and other courts; the republic public prosecutor and public prosecutors; the governor of the National Bank and other high-ranking officials as specified by law;
- 11) effect control over the work of the Government and other organs, and senior officials responsible to the National Assembly, in accordance with the Constitution and law;

Article 83

The President of the Republic shall:

- 1) propose to the National Assembly a candidate for the post of prime minister after hearing the opinion of the deputies of the majority in the National Assembly;
- 2) propose to the National Assembly the candidates for the president and the judges of the Constitutional Court;
- 3) promulgate the laws by ordinance;
- 4) conduct affairs in the sphere of relations between the Republic of Serbia and other states and international organisations in accordance with law;
- 5) lead the armed forces in peacetime and in war. and the popular resistance in war; order the general and partial mobilization; organize the preparations for defense in accordance with law;
- 6) if the National Assembly is not in a position to meet and after obtaining an opinion from the prime minister, establish the existence of an imminent threat of war or proclaim a state of war;
- 7) at his own initiative or at the proposal of the Government during a state of war or imminent threat of war, adopt instruments relating to questions falling within the competence of the National Assembly, whereby he is bound to submit them to the National Assembly for approval as soon as it is in a position to meet. By way of the instruments adopted during the state of war it shall be possible to restrict some human and civil freedoms and rights, and to alter the organisation, composition and powers of the Government and ministries, and public prosecutor's offices;
- 8) at the proposal of the Government, if the security of the Republic of Serbia, human and civil freedoms and rights, or the work of state organs are threatened in a part of the

territory of the Republic of Serbia, proclaim a state of emergency, and adopt instruments for taking measures required by such circumstances, in accordance with the Constitution and law;

9) grant pardons;

10) confer decorations and awards as provided for by law;

11) establish professional services and other kinds of services to conduct affairs falling within his jurisdiction;

12) conduct other affairs in accordance with the Constitution.

Article 84

1) The President of the Republic shall promulgate a law by ordinance¹ within seven days of its adoption in the National Assembly. Within this time the President of the Republic may demand from the National Assembly to vote again on the law.

2) The President of the Republic shall be bound to promulgate a law passed for the second time in the National Assembly.

Article 85

The President of the Republic may request from the Government to state its positions concerning certain issues falling within its jurisdiction.

Article 86

(5) Upon assuming his office, the President of the Republic shall take the following oath before the National Assembly:

"I swear that I shall devote all my forces to the preservation of sovereignty and integrity of the territory of the Republic of Serbia, to the realisation of human and civil freedoms and rights, to the observance and defense of the Constitution and laws; to the preserving of peace and welfare of all the citizens of the Republic of Serbia, and that. I shall conscientiously and responsibly meet all my duties".

Article 89

1) At the reasoned proposal of the Government, the President of the Republic may decide that the National Assembly be dissolved.

2) With the dissolution of the National Assembly the Government's mandate shall also be terminated.

3) In the event of the dissolution of the National Assembly, the election for a new National Assembly must be held within 60 days of its dissolution.

4) The National Assembly may not be dissolved during a state of war, an imminent threat of war or a state of emergency.

Article 132

1) A proposal to amend the Constitution may be submitted by no less than 100,000 voters, or no less than 50 deputies, by the President of the Republic, or by the Government.

2) A proposal to amend the Constitution shall be decided upon by the National Assembly by a two-third majority of the total number of representatives.

¹ The correct translation of "ukaz" is ordinance.

Article 135

- 1) The rights and duties vested under the present Constitution of the Republic of Serbia, which is part of the Socialist Federal Republic Yugoslavia, and which, under the Federal Constitution, are to be exercised in the Federation, shall be exercised in accordance with the federal constitution.
- 2) If instruments of organs of the Federation or instruments of organs of another republic, in contravention of the rights and duties it has under the Constitution of the Socialist Federal Republic of Yugoslavia, violate the equality of the Republic of Serbia or in any other way threaten its interests, without providing for compensation, the republican organs shall adopt instruments acts to protect the interests of the Republic of Serbia.

1D139 Constitution of the FRY (1992)

Article 7

Within its competencies, a member republic may maintain relations with foreign states, establish its own missions in other states, and join international organizations. Within its competencies, a member republic may conclude international agreements, but not to the detriment of the Federal Republic of Yugoslavia or any of its other member republics.

Article 16

The Federal Republic of Yugoslavia shall fulfil in good faith the obligations contained in international treaties to which it is a contracting party. International treaties which have been ratified and promulgated in conformity with the present Constitution and generally accepted rules of international law shall be a constituent part of the internal legal order.

Article 77

Through its organs, the Federal Republic of Yugoslavia shall formulate policy, enact and enforce federal legislation, other laws and general enactments, and ensure judicial protection in matters concerning:

- 6) international relations; border crossing and control of the circulation of goods, services and passengers across the border; the status of aliens and foreign artificial persons;
- 7) the defence and security of the Federal Republic of Yugoslavia;

Article 78

The Federal Assembly shall:

- 2) decide on admission of other states as member republics into the Federal Republic of Yugoslavia; decide on association with other states and on membership in international organizations;
- 3) decide on alterations to the frontiers of the Federal Republic of Yugoslavia; decide on war and peace; declare a state of war, a state of imminent threat of war, and state of emergency;
- 4) adopt federal statutes, other laws and general enactment's; approve the federal budget and final balance sheet; ratify international treaties falling within the jurisdiction of the Federal Republic of Yugoslavia;

Article 96

The President of the Republic shall:

- 1) represent the Federal Republic of Yugoslavia at home and abroad;

Article 99

The federal government shall:

- 1) formulate and conduct domestic and foreign policy and enforce federal statutes, other laws and general enactments;
- 9) call for a general mobilization and organize defense preparations;
- 10) proclaim an imminent threat of war, state of war, or emergency when the Federal Assembly is not able to convene, subject to the opinion of the President of the Republic and presidents of the Federal Assembly chambers;

Article 115

- 1) The constitutions of the member republics, federal statutes, the legislation of member republics and all other laws and general enactments must be in conformity with the Constitution of the Federal Republic of Yugoslavia.
- 2) Statutes, other laws and general enactments in a member republic must be in conformity with federal law.
- 3) Regulations and other general enactments adopted by federal agencies must be in conformity with federal law.

Article 130

When the Federal Constitutional Court determines that there is a discrepancy between given provisions of the constitution of a member republic and the Constitution of the Federal Republic of Yugoslavia, the said provisions of the constitution of the member republic shall cease to be valid at the end of six months from the day the discrepancy was found, if the discrepancy has not been rectified within this time. When the Federal Constitutional Court determines that there is a conflict between given provisions of statutes, other laws or general enactments and the Constitution of the Federal Republic of Yugoslavia or federal law, the said provisions of the statutes, laws or general enactments shall cease to be in effect from the day of publication of the ruling of the Federal Constitutional Court.

Article 133

- 1) The Federal Republic of Yugoslavia shall have an Army to defend its sovereignty, territory, independence and constitutional order.
- 2) The Army of Yugoslavia may be in the service of an international organization, subject to the consent of the federal government.

Article 134

- 1) The Army of Yugoslavia shall be composed of Yugoslav citizens.
- 2) The Army of Yugoslavia shall be made up of a standing army and reserve units.
- 3) The standing army shall be composed of professional soldiers and conscripts.
- 4) A federal law shall be adopted regulating the Army of Yugoslavia

Article 135

- 1) In wartime and peacetime, the Army of Yugoslavia shall be under the command of the President of the Republic, in accordance with to decisions by the Supreme Defence Council.
- 2) The Supreme Defence Council shall be made up of the President of the Republic and presidents of the member republics.
- 3) The President of the Republic shall preside over the Supreme Defence Council

Article 136

The President of the Republic shall appoint, promote and dismiss from service officers of the Army of Yugoslavia stipulated by federal law; shall appoint and dismiss the president, judges and judge assessors of military tribunals and military prosecutors.

**1D358, Constitutional Law on Amendments to the Constitutional Law on the
Implementation of the Constitution of the Republic of Serbia (1992)**

Article 1

In the Constitutional Law for implementing the Constitution of the Republic of Serbia in Article 8, paragraph 2, the words: “with a deadline of two years from the day of the promulgation of the Constitution,” shall be replaced with the words: “by 31 December 1992”.

Article 4

Article 22 shall be amended to read as follows:

“By² 31 December 1992, all the other republican laws which are not in line with the Constitution, and which govern relations whose regulation is not the responsibility of the Federal Republic of Yugoslavia, shall be brought into line with the Constitution.”

P1623 Constitution of the SFRY (1974)

Article 256

If through an act pertaining to the formulation or implementation of common economic policy a federal agency has disrupted the equality of organizations of associated labour in income earning and in the use of the results of labour, or it has disrupted the equality of the Republics and Autonomous Provinces on the unified Yugoslav market, the federal agency shall simultaneously with the formulation of common economic policy and/or the enactment of measures for its implementation, fix and ensure compensation as a component part of measures of common economic policy for the planning period concerned.

Article 281

(6) regulate the fundamentals of the system of national defence and ensure their implementation; regulate the basic rights and duties of working people and citizens, organizations of associated labour and other self-managing organizations and communities, socio-political and other social organizations in the sphere of national defence; regulate the basic rights and duties of the sociopolitical communities in the realization of the system of national defence; regulate special rights and obligations of organizations of associated labour and other self-managing organizations and communities regarding priority production and rendering of services for the needs of national defence and manufacture of arms and military equipment; regulate adjustment of regional and town plans and construction of capital projects for the defence needs of the country; lay down the fundamentals of plans and preparatory measures for the defence of the country; proclaim mobilization; regulate the administration and command of the Armed Forces of the Socialist Federal Republic of Yugoslavia and exercise supreme command over the Armed Forces; regulate and organize the Yugoslav People's Army, administer it and exercise command over it; regulate the management and use of social resources utilized by the Yugoslav People's Army and for its needs; regulate citizen's

² Tr. 12881-12882.

national service and care for the families of persons doing national service; regulate matters concerning the status and other problems of persons serving in the Yugoslav People's Army and of military personnel; regulate the special rights and duties of military personnel in connection with their service in the Armed Forces; regulate and ensure military education and scientific research for the needs of the Armed Forces; regulate and organize military courts and the office of military prosecutor; regulate and ensure social security and care for military personnel and military insured and their dependents; regulate and ensure the basic rights of veterans, disabled veterans and survivors of fallen veterans;

(7) The Federation, acting through its federal authorities: establishes the foreign policy of the Socialist Federal Republic of Yugoslavia and ensures that this policy is given effect; maintains political, economic and other relations with other states and international organisations; enters into, ratifies and ensures the enforcement of international agreements; ensures the observance by the Socialist Federal Republic of Yugoslavia of its international obligations; regulates the organisation and activities of the services which conduct the foreign relations of the Federation.

Article 283

The S.F.R.Y. Assembly shall:

(5) decide on war and peace; ratify international treaties pertaining to political and military cooperation, and international treaties entailing the passage of new statutes or amendments to existing ones.

Article 313

(3) The S.F.R.Y. Presidency is the supreme body in charge of the administration and command of the Armed Forces of the Socialist Federal Republic of Yugoslavia in war and peace.

Article 316

In matters concerning total national defence, the S.F.R.Y. Presidency shall lay down the fundamentals of plans and preparatory measures for the defence of the country, issue guidelines for taking measures for alerting and mobilizing the country's potential and forces for defence purposes and for the adjustment of plans and measures of the socio-political communities, organizations of associated labour and other self-managing organizations and communities, determine the existence of an immediate danger of war, order general or partial mobilization and, if the S.F.R.Y. Assembly is not in a position to meet, proclaim a state of war.

Article 328

(1) The President of the S.F.R.Y. Presidency shall, on behalf of the S.F.R.Y. Presidency, represent the Socialist Federal Republic of Yugoslavia, represent the S.F.R.Y. Presidency, convene and preside over the meetings of the S.F.R.Y. Presidency, sign and adopted by the S.F.R.Y. Presidency, ensure the implementation of acts and conclusions of the S.F.R.Y. Presidency, issue instruments of ratification of international treaties and receive letters of credence from foreign diplomatic representatives accredited to the S.F.R.Y. Presidency.

(2) The President of the S.F.R.Y. Presidency shall, on behalf of the S.F.R.Y. Presidency,

be in charge of the command of the Armed Forces of the Socialist Federal Republic of Yugoslavia, in conformity with the present Constitution and federal statute.

(3) The President of the S.F.R.Y. Presidency shall be Chairman of the Council of National Defence.

(4) During a state of war, in the event of an immediate danger of war and in other similar kinds of emergency when the S.F.R.Y. Presidency is not able to meet, the President of the S.F.R.Y. Presidency shall, on behalf of the S.F.R.Y. Presidency, exercise specific rights and duties, as authorized by the S.F.R.Y. Presidency.

(5) During his absence or prolonged inability to perform his office, the President of the S.F.R.Y. Presidency shall be deputized for by the Vice-President, who may represent him in the conduct of affairs entrusted to him by the President.

(6) With the termination of the office of President of the Republic, the S.F.R.Y. Presidency shall exercise all rights and duties vested in it under the present Constitution, and the Vice-president of the S.F.R.Y. Presidency shall become President of the S.F.R.Y. Presidency until the expiry of the term for which he was elected Vice-President.

Article 335

(3) The President of the Republic shall be Commander-in-Chief of the Armed Forces of the Socialist Federal Republic of Yugoslavia.

Article 342

As the Commander-in-Chief of the Armed Forces of the Socialist Federal Republic of Yugoslavia, the President of the Republic shall:

(1) direct and command the Armed Forces of the Socialist Federal Republic of Yugoslavia and determine the fundamentals of plans and preparatory measures of the defence of the country;

1D140 Law on All People's Defence (1982)

Federal Secretariat for National Defence

Article 79

In connection with the organisation of and preparations for all-people's defence, the implementation of the basic principles of plans and preparatory measures for the defence of the country and the implementation of command and control of the armed forces, the Federal Secretariat of National Defence shall perform administrative and specialised tasks pertaining to the following:

The Federal Secretariat of National Defence shall perform staff and other specialised tasks for the needs of the Presidency of the SFRY in connection with the realisation of its rights and duties in the field of all-people's defence as defined by the Constitution of the SFRY and federal law with the exception of specialised tasks falling within the scope of responsibility of other federal administration organs and federal organisations in that field.

The Federal Secretary for All-People's Defence shall adopt regulations for which he is authorised and shall issue specialised instructions for the execution of defence preparations and other tasks cited in paragraphs 1 and 2 of this Article.

Article 107

On behalf of the SFRY Presidency, the President of the SFRY Presidency shall:

- 1) command the armed forces in accordance with the SFRY Constitution, Federal Law and decisions and approaches of the SFRY Presidency;
- 2) represent the armed forces at home and abroad;
- 3) sign legal instruments of the SFRY Presidency concerning the armed forces and ensure their implementation,
- 4) perform other tasks stipulated by the SFRY Constitution and Federal Law, as well as tasks conferred to him by the SFRY Presidency

1D71 Law on Amendments to the Law on All People's Defence (1991)

Article 26

In paragraph 3 of Article 79, at the end, a new sentence shall be added to read as follows: "In performing these duties, the Federal Secretariat for People's Defence acts as the Armed Forces Supreme Command Staff".

1D750 Law on Carrying Out Foreign Affairs Tasks Within Competencies of Federal Administration Organs and Organisations (1981)

Article 3

Federal administrative organs and federal organisations shall execute foreign affairs within the scope of their jurisdiction, independently and pursuant to and within the framework of the SFRY /Socialist Federative Republic of Yugoslavia/ Constitution, federal laws, other federal regulations and general enactments of the SFRY Assembly and within the framework of the established foreign policy of the Socialist Federative Republic of Yugoslavia and international treaties. They shall be responsible to the SFRY Assembly and to the Federal Executive Council for executing these affairs in the fields for which they were established.

Article 5

The Federal Executive Council shall direct and determine the manner of cooperation, and shall supervise the work of federal administrative organs and federal organisations in the field of foreign affairs within the jurisdiction of these organs and organisations. Federal administrative organs and federal organisations shall cooperate when executing foreign affairs within their jurisdiction.

1D246 Law on Foreign Affairs (1998)

Article 1

This Law shall regulate: the manner of conducting foreign affairs within the competence of the Federal Ministry of Foreign Affairs and other federal ministries and federal organs and organisations; relations between these organs in conducting Foreign affairs; the position of diplomatic and consular missions of the Federal Republic of Yugoslavia in foreign countries; the powers and responsibilities of the heads of these missions; and certain employment relations issues concerning employees of the Federal Ministry of Foreign Affairs, which stem from conducting Foreign affairs.

Article 4

The Federal Ministry of Foreign Affairs (hereinafter: the Ministry):

- implements, within the ambit of its responsibilities, the defined Foreign policy of the Federal Republic of Yugoslavia;
- monitors the situation and developments in international relations and bilateral cooperation with other countries;
- recommends to the Federal Government the establishment or discontinuation of diplomatic relations with Foreign countries;
- brings initiatives in the Federal Government to recommend to the FRY Assembly membership of the Federal Republic of Yugoslavia in international organisations;
- participates in the signing and implementation of international treaties;
- conducts diplomatic, consular and other professional affairs focused on the establishment of political, economic, cultural, information and other relations of the Federal Republic of Yugoslavia with other countries and international organisations;
- protects the interests of the Federal Republic of Yugoslavia, its citizens and legal entities abroad;
- takes measures to protect and ensure that the political, religious, cultural and other rights of the Federal Republic of Yugoslavia's nationals living in neighbouring and other countries are respected;
- undertakes measures to improve relations with expatriates abroad;
- together with the responsible federal organs, participates in policy making and implementation in the fields of information, science, culture, sport and others; informs citizens of the Federal Republic of Yugoslavia in Foreign countries and expatriates on the politics of the Federal Republic of Yugoslavia and monitors foreign media activities related to our country;
- organises cooperation with scientific institutions in order to study and improve the foreign policy of the Federal Republic of Yugoslavia;
- prepares participation of representatives of the Federal Republic of Yugoslavia in international conferences or negotiations for the signing of international treaties and conducts affairs for the implementation of international treaties;
- conducts affairs related to accredited persons residing in the Federal Republic of Yugoslavia;
- gathers, keeps and publishes documentation on the Federal Republic of Yugoslavia's foreign policy;
- carries out other activities in the field of foreign affairs, determined by the Federal Government.

P984 Law on the Army of Yugoslavia (1994)

Article 2

- 1) The Army of Yugoslavia (hereinafter: the Army) shall be divided into services. The services shall be divided into combat arms and supporting arms and the combat arms and supporting arms shall be divided into sections and specialist services.
- 2) The services of the Army shall be the Land Forces, the Air Force and Anti-Aircraft Defence, and the Navy.
- 3) The President of the Republic shall designate the combat arms and support services, and the Chief of General Staff of the Army of Yugoslavia (hereinafter: the Chief of General Staff) shall designate the sections and specialist services.

Article 4

- 1) The President of the Republic shall command the Army in war and peace in accordance with decisions of the Supreme Defence Council.
- 2) In his command of the Army the President of the Republic shall:
 - 1) establish the principles of internal organisation, the development and equipping of the Army;
 - 2) determine the system of command in the Army and oversee its implementation;
 - 3) decide on the deployment of the Army and approve the plan for its use;
 - 4) regulate and order readiness of the Army in case of an imminent threat of war, state of war, or state of emergency;
 - 5) provide guide-lines for arrangements relating to mobilisation and issue orders for the mobilisation of the Army;
 - 6) issue basic regulations and other acts related to the deployment of the Army;
 - 7) adopt rules regulating the internal order and relations in the performance of military service;
 - 8) perform other duties relating to the command over the Army in accordance with federal law.
- 3) In performing the duties described in paragraph 2 herein, the President of the Republic shall issue orders, commands, and decisions.

Article 5

- 1) The General Staff of the Army shall be the highest professional and staff organ for the preparation and use of the Army in times of peace and war.
- 2) In accordance with the basic principles of organisation, development, and establishment of the Army and the documents issued by the President of the Republic, the Chief of General Staff shall:
 - 1) determine the organisation, plan of development, and establishment of the commands, units, and institutions of the Army;
 - 2) determine the plan of recruitment and maintenance of manpower levels for the Army and the numerical distribution of recruits in the Army;
 - 3) issue regulations on the training of the Army;
 - 4) determine plans for the education and advanced training of professional and reserve commanding officers;
 - 5) perform other duties as stipulated by this Law.

Article 6

- 1) In order to implement documents issued by the President of the Republic and the duties of commanding the Army, as well as the duties stipulated by this Law, the Chief of General Staff shall issue rules, orders, commands, instructions, and other documents.
- 2) The commanding officers of units and institutions of the Army shall command these units and institutions in accordance with this Law and the command documents issued by their superior officers.

Article 16

- 1) Generals and commanding officers performing duties for which the rank of general has been determined in the establishment shall be appointed to positions by the President of the Republic. Other officers, non-commissioned officers and soldiers shall be appointed to positions in the Army by the Chief of the General Staff or a commanding officer

authorised by him, and in the Federal Ministry of Defence by the Federal Minister of Defence or a commanding officer authorised by him.

2) The maintenance of manpower levels in the units and institutions by conscription, according to the numerical distribution of individuals liable for military service and material resources from the list, shall be carried out by the competent military territorial organ in accordance with the established criteria and priorities of maintenance of manpower levels.

3) The maintenance of manpower levels in the Army or certain parts of the Army under conditions of reduced peacetime recruitment may be carried out by calling up individuals from the reserve forces (extraordinary replenishment). Individuals from the reserve forces who are called up on this basis may be kept in the Army for up to two months during the course of a single year.

Article 28

1) The President of the Republic may transfer an individual who is not a Yugoslav citizen, but has acquired the rank of a military officer during service in the Army in a state of war to the Reserve Forces of the Army. This individual shall be entered in the Military Register as a military officer with an honorary rank.

2) The President of the Republic may also award an honorary rank for rendering special services to a individual who is not a Yugoslav citizen and has not served in the Army.

Article 34

1) A service member may receive a foreign medal with the permission from the President of the Republic.

2) A service member may become a member of a foreign professional association or an international organisation with the permission from the Federal Minister of Defence or an officer authorised by him.

Article 46

1) The President of the Republic may exceptionally promote a professional officer to the rank of General at the proposal of the Chief of General Staff.

2) The Chief of General Staff may exceptionally promote a professional non-commissioned officer or professional officer to the rank immediately above the rank of Colonel.

3) The conditions and manner of exceptional promotion of individuals from paragraphs 1 and 2 herein shall be regulated by a rule issued by the Federal Government.

Article 103

1) If the use of annual leave or its part was started at the end of a calendar year, it shall be continued without a break in the following year.

2) As an exception from the provision in paragraph 1 herein, a professional soldier who did not use his annual leave because of the needs of service or for other justified reasons, may use it in the following calendar year, but not later than 30 June of that year.

3) Upon the decision of the President of the Republic, the Chief of General Staff may suspend or interrupt annual leave and holidays to service members on account of the extraordinary needs of service.

4) A professional soldier who did not use his annual leave for the reasons from paragraph 3 herein shall be entitled to a leave compensation and a special compensation for the

number of days of unused annual leave.

Article 107

- 1) Military service of a professional officer or non-commissioned officer shall be terminated:
 - 1) if based on an evaluation and opinion of a competent organ of the medical service, it is established that he is permanently unfit to serve in the Army;
 - 2) if he is absent from service for five consecutive days or seven separate days within 12 months;
 - 3) if he received a negative evaluation two times in a row;
 - 4) if he was given a disciplinary sentence of suspension from the Army;
 - 5) if he loses rank;
 - 6) at his own request.
- 2) Military service of a professional officer or non-commissioned officer shall be terminated when he has acquired at least 30 pensionable years of service, if the needs of service so require.
- 3) Military service of a professional officer or non-commissioned officer shall be terminated, if the needs of service so require, or if he spends six months on stand-by and fulfils the requirements for old age pension (Article 242), or if he is entitled to one of the following:
 - 1) the right to purchase length of service of up to five years in order to gain the right to old age pension;
 - 2) the right to a lump sum payment in the amount of 24 months of pay that he received in the last month before his service ended.
- 3) Military service of professional officers and non-commissioned officers shall be terminated by statutory force if they have 40 pensionable years of service and have reached the following age:
 - 1) non-commissioned officer – 52 years;
 - 2) officer up to the rank of Captain 1st Class – 55 years;
 - 3) officer in the rank of Major up to the rank of Colonel – 57 years;
 - 4) officer in the rank of Major General – 58, Lieutenant General – 59 and Colonel General and Army General – 60 years.
- 4) A professional officer – a distinguished expert whose military service shall be terminated pursuant to the provisions under paragraph 4 herein may exceptionally remain in service, but not in a commanding position, until he reaches the age of 65, if he agrees to this and if in his work he is achieving results of exceptional significance for the defence of the country.
- 5) The decision to keep a professional officer from paragraph 5 herein in service shall be issued by:
 - 1) the President of the Republic - for professional officers holding the rank of General;
 - 2) the Chief of General Staff - for other professional officers in the Army, and in the Federal Ministry of Defence – the Federal Minister of Defence.
- 6) The service for a professional officer or non-commissioned officer who has not acquired the length of service from paragraph 4 herein shall end according to statutory force when he reaches the age of 65.

Article 151

The President of the Republic shall:

- 1) promote professional and reserve officers to their initial ranks;
- 2) promote officers to the rank of major general or higher rank;
- 3) issue decisions on generals' transfer, service status, admission to professional military service and termination of service;
- 4) appoint officers with the rank of Colonel to duties for which the rank of general has been determined in the establishment.

Article 168

At the proposal of the Chief of General Staff, the President of the Republic may lower, mitigate, or pardon every disciplinary measure or sentence.

Article 173

The rule on military discipline, issued by the President of the Republic, shall regulate the procedure and authority for considering disciplinary violations, imposing disciplinary measures and sentences, their implementation and recording, the organisation, structure and work of military disciplinary courts and organs responsible for considering offences of the reserve officers and non-commissioned officers committed outside the service.

Article 179

- 1) Military disciplinary courts shall consist of a president, the requisite number of judges, and a registrar.
- 2) The court registrar shall help the president of the court or a trial chamber in preparing and processing cases and shall carry out other professional tasks designated by the president of the court. The court registrar must have a law degree.
- 3) A military disciplinary court shall have a military disciplinary prosecutor who shall have the requisite number of deputies.
- 4) The presidents, judges, military disciplinary prosecutors and their deputies and the registrars of military disciplinary courts shall be appointed by the Chief of the General Staff for terms of two years.

Article 204

- 1) The responsibility of service members for violations of military discipline during a state of war shall be decided in a most urgent manner regardless of the deadlines prescribed by the provisions of this Law.
- 2) As a rule, disciplinary measures or disciplinary sentences the implementation of which is not feasible or possible considering the conditions and circumstances under which they should be implemented shall not be handed down during a state of war.
- 3) The President of the Republic may stipulate other disciplinary measures or disciplinary sentences that will be handed down against service members during a state of war, or that some disciplinary measures or sentence prescribed by this Law should not be implemented, or a different procedure and jurisdiction over disputes concerning responsibility of service members for violation of military discipline, and different organisation and operation of military disciplinary courts.

Article 208

- 1) An individual who has lost his rank pursuant to the provisions of Article 207,

paragraph 1, items 2 and 4 of this Law may have his rank restored if he makes a special effort to prove that he deserves this.

2) The decision to restore an individual's rank under the provision of paragraph 1 herein shall be made by:

1) the President of the Republic in the case of a commissioned officer;

2) the Chief of the General Staff in the case of a non-commissioned officer.

3) During a state of war, the commanding officer in charge of promotions may restore lost rank to an individual if he demonstrates courage or for other wartime merit.

Article 291

1) Recruitment shall be carried out in the calendar year in which a military conscript reaches the age of 18.

2) A military conscript may, at his request, be recruited in the calendar year when he reaches the age of 17.

3) In time of war, the President of the Republic may order the recruitment of military conscripts who have reached the age of 17.

Article 296

1) Compulsory military service shall last 12 months.

2) A recruit who does not wish to do compulsory military service under arms for religious or other reasons of conscience, or wishes to serve in the Civilian Service shall serve for 24 months.

3) The recruit from paragraph 2 herein who decides to serve under arms in the course of performing his compulsory military service shall continue doing his service following a programme for soldiers bearing arms for a time that may not be shorter than 12 months.

4) As an exception from the provisions of paragraphs 1 to 3 herein, the President of the Republic may decide that a soldier be discharged from serving in the Army up to 60 days before his term, if the needs of replenishment and combat readiness of the Army make this possible.

Article 316

1) The obligations of individuals in the Reserve Forces (hereinafter: the Reserve Forces) shall commence from the day of discharge from compulsory military service or from the day when the obligation to serve was fulfilled in some other way and go on until the end of the calendar year in which the military conscript – a man has reached the age of 60.

2) The duty of a woman military conscript in the Reserve Forces shall commence at the beginning of the calendar year in which she reaches the age of 19 and continue until the end of the calendar year in which she has reached the age of 50.

3) In case of an imminent threat of war or state of war, the President of the Republic may prolong the duration of the duty of individuals in the Reserve Forces for officers and non-commissioned officers even after the deadlines from paragraphs 1 and 2 herein have expired.

4) The President of the Republic may, in case of an imminent threat of war and state of war, order that those who have just completed their compulsory military service according to this Law are kept in the Army as members of the Reserve Forces.

Article 318

1) Individuals in the Reserve Forces – men may be called to a military exercise until they

- have reached the age of 60, whereas women until they have reached the age of 50.
- 2) As an exception from the provision under paragraph 1 herein, a pregnant woman – military conscript shall not be called to a military exercise whose spouse was called to do compulsory military service or if she does not have a spouse and has a child younger than 15, or a woman whose spouse was not called to do compulsory military service and she has a child younger than 10.
- 3) An individual in the Reserve Forces may be called to spend a maximum of 90 days in military exercises in the course of one year.
- 4) In case of an imminent threat of war or state of war, the President of the Republic may order that the following individuals be called to a military exercise:
- 1) individuals in the Reserve Forces who spent the period of time prescribed by the provision under paragraph 3 herein in military exercises;
 - 2) individuals in the Reserve Forces who have reached the age from paragraph 1 herein.

P985 Law on Defence (1994)

Article 6

In case of an imminent threat of war, a state of war or a state of emergency:

- 1) citizens, state organs, companies and other legal entities shall undertake measures and activities in accordance with the duties prescribed by the plan of general mobilisation, the plan of preparations for defence and decisions by the Federal Government;
 - 2) commands, units and institutions of the Army of Yugoslavia shall act in accordance with the plans of mobilisation and use of the Army of Yugoslavia and the orders of the President of the Republic.
- 2) The plans from paragraph 1, item 1 of this Article shall be proposed by the Federal Government, and from item 2 of this paragraph by the competent organ of the Army of Yugoslavia.
- 3) The plans from paragraph 1 of this Article (hereinafter: Defence Plan of the Country) or an extract from these plans shall define the duties of those who carry them out.

Article 8

In case of an imminent threat of war, a state of war or a state of emergency, the President of the Republic shall, pursuant to decisions of the Supreme Defence Council, order measures of readiness, mobilisation and use of the Armed Forces of Yugoslavia and other measures and actions to be taken by the Armed Forces of Yugoslavia in order to prevent and eliminate the threat to the defence and security of the country.

Article 14

- 1) Partial mobilisation of citizens, individual commands, units and institutions of the Army of Yugoslavia, state organs, companies and other legal entities, and material resources necessary for the defence of the country may also be ordered as a means of checking the readiness to carry out mobilisation through planned exercises, checks and supervision of the preparations for mobilisation.
- 2) Mobilisation from paragraph 1 of this Article for citizens, state organs, companies and other legal entities shall be ordered by following approval by the Federal Government, the Federal Ministry of Defence and for the commands, units and institutions of the Army of Yugoslavia and military conscripts deployed in the Army of Yugoslavia by officers in command positions in the Army of Yugoslavia authorised by the President of the Republic in accordance with the decision of the Supreme Defence Council.

Article 40

In accordance with the decisions of the Supreme Defence Council, the President of the Republic:

- 1) orders implementation of the country's Defence Plan;
- 2) commands the Army of Yugoslavia in wartime and peacetime;
- 3) decides on the country's territorial division into military areas.

Article 43

The Federal Ministry of Defence performs the following administrative and specialist tasks related to the implementation of the country's defence policy and the implementation of the defence system:

- 1) preparing and planning general mobilisation, organising preparations for the country's defence and performing other duties as defined by the country's Defence Plan;
- 2) planning and organising the discharge of compulsory military service and other citizens' duties in relation to the country's defence and the reinforcement of the Army of Yugoslavia;
- 3) arrangement and preparation of the territory for the needs of the country's defence;
- 4) training for the country's defence and education for work related to the country's defence and security;
- 5) equipping and arming for the needs of the country's defence;
- 6) scientific research work of importance to the country's defence;
- 7) co-ordinating organisation of the country's communications with the needs of the Yugoslav Army and preparing a general regime for the use of communications during a state of war, an imminent threat of war or a state of emergency;
- 8) organisation and operation of a war regime of navigation at sea and on inland

water ways;

9) organisation of communications and cryptographic protection for the needs of state organs and organisations;

10) organising and preparing facilities for the production of weapons and military equipment and securing priority production for the needs of the Army of Yugoslavia;

11) statistic research and records of relevance to the country's defence;

12) other administrative and specialist tasks in relation to the implementation of federal laws, other federal regulations and general acts of the Federal Assembly and Federal Government concerning the country's defence for which it is responsible under federal law.

Article 44

The Federal Ministry of Defence performs checks on the implementation of federal law and other federal regulations, plans and measures of federal agencies and federal organisations particularly related to:

- 1) organising and co-ordinating preparations for the country's defence;
- 2) implementing decisions and acts rendered by the President of the Republic, the Supreme Defence Council and the Federal Government;
- 3) carrying out and co-ordinating the organisation of communications as described in Article 43, paragraph 1, item 7 of this Law.

Article 45

1) In carrying out the inspection work mentioned in Article 44 of this law, authorised persons have the following rights and duties:

- 1) to check preparations for and the conduct of general mobilisation, preparations for the country's defence and implementation of decisions and measures of the Federal Government and other competent federal organs in relation to these preparations;
- 2) to order the eradication of discrepancies;
- 3) to suspend measures and operations which are incompatible with the country's Defence Plan until the competent authorities make the relevant decision;
- 4) to provide expert assistance to the organs under inspection and to inform the competent organs of their findings and the measures undertaken.

2) The inspected bodies are obliged to comply with the findings of the persons authorised to conduct inspections.

Article 46

1) The Federal Ministry of Defence performs tasks related to the construction of military and other facilities of particular importance to the country's defence and the construction of investment facilities within military compounds for the needs of the Army of Yugoslavia.

2) The Federal Government adopts regulations on the rights and duties of organs in the construction of facilities as defined in paragraph 1 of this Article, technical and other documents for these facilities, the keeping of records on the construction, and supervision of the construction and maintenance of the facilities.

Article 47

1) In order to implement the federal Laws and other federal regulations relating to the defence of the country, the Federal Ministry of Defence may give instructions to state organs, organisations of member republics, units of local self-government, companies and other legal entities to carry out tasks related to the defence of the country and control the implementation of federal regulations in that field except for tasks in the jurisdiction of other state organs and organisations and may request reports on the implementation of federal regulations in the field of the defence of the country for which these organs and organisations are responsible.

2) State organs, companies and other legal entities from paragraph 1 of this Article must act according to the instructions and requests of the Federal Ministry of Defence.

Article 48

The state organs and organisations not cited in this Law shall exercise their rights and duties in the field of the defence of the country in accordance with the constitution of the FRY, federal Law and other federal regulations and carry out the duties stipulated in the country's Defence Plan and decisions of the Federal Government on preparations for defence.

Article 67

1) Citizens, state organs, companies, and other legal entities are obliged to protect secret data on the defence of the country by using appropriate measures and carrying out stipulated and ordered measures for the protection of these data.

2) Under this law, documents and information on combat and other material resources, facilities, measures and activities and other data whose detection could be damaging to the defence and security of the country shall be considered secret information on the defence of the country.

3) The Federal Government shall establish criteria for designating the information of particular importance for the defence of the country that has to be safeguarded as state or official secrets and compulsory measures for its protection.

4) The President of the Republic shall prescribe criteria for designating the data on the Army of Yugoslavia that represent a military secret, the level of the military secret and measures for its protection.

5) State organs, companies and other legal entities must designate what data of interest for the defence of the country from within their jurisdiction shall be considered secret information and set measures and procedures for the protection of this information.

P1862 Law on the Government of the Republic of Serbia (1991)

Article 19

At the request of the President of the Republic, the Government shall take a position on specific issues³ within its jurisdiction and inform the President of the Republic thereof within a period that he determines and that may not be shorter than 48 hours as a rule.

³ Tr. 12988-12989.

P1737 Law on Internal Affairs (1996)

Article 1

- 1) Internal affairs are affairs established by law conducted by the competent republican organs in order to ensure the safety of the Republic, its citizens and the exercise of their constitutional and other legal rights.
- 2) The Ministry of the Interior shall conduct the internal affairs of the State administration.
- 3) Specific internal affairs may be entrusted to other organs and organisations.

Article 6

- 1) Organisational units shall be set up within the Ministry of the Interior to perform specific duties.
- 2) The Minister of the Interior (hereinafter “the Minister”) shall determine the scope of action of the organisational units, their structure, their seats and the area they cover.

Article 7

The Minister shall determine the manner in which the Ministry of the Interior performs its duties and issue instructions for their performance.

Article 8

- 1) In accordance with the rules governing internal affairs, unless otherwise stipulated in a special law, the person in charge of an organisational unit referred to in Article 6, paragraph 1 shall be authorised to discharge matters in the first instance (hereinafter “the responsible officer”).
- 2) The Minister shall rule on an appeal against the first-instance ruling of responsible officer.

Article 9

At the request of the National Assembly and the President of the Republic, the Minister must submit a report on the work of the Ministry of the Interior and on the security situation in the Republic.

Article 17

- 1) Should a state of emergency be proclaimed in any part of the territory of the Republic, the Ministry of the Interior shall take measures to protect the security of the Republic and its citizens as specified by the orders and other instruments of the President of the Republic adopted in order to lift the state of emergency, in line with the law.
- 2) The Minister shall take the measures mentioned in paragraph 1 of this Article in accordance with the law and under the terms and in the procedure determined by the legislation issued by the President of the Republic.

Article 33

Employees of the Ministry of the Interior are obliged to carry out all the orders of the Minister or other superior officer issued for the purpose of completing tasks, except those ordering action which constitutes a criminal offence.

1D237 Law on the Ranks of Members of the Ministry of the Interior (1995)

Article 6

- 1) The President of the Republic shall assign and appoint to their ranks Generals and authorised officials in posts for which the rank of General is established under the Regulation on Staffing Specification.
- 2) The President of the Republic shall also assign to the starting rank of 2nd Lieutenant graduates and those persons who have obtained a high level of education and this starting rank by completing basic studies at the Police Academy.
- 3) Other authorised officials in posts for which a non-commissioned officer, officer, or senior officer ranks are established under the Enactment on Systematisation shall be assigned by the Minister of the Interior or an officer authorised by him.

Article 7

- 1) An authorised official shall advance to the next rank up under the following conditions:
 - 1) that he has the appropriate vocational training;
 - 2) that the rank is established for the post to which he is assigned or will be assigned;
 - 3) that he has held the previous rank for a specified period of time;
 - 4) that he has had positive assessments for two years prior to obtaining the rank;
 - 5) that in the two years prior to obtaining the rank he was not sentenced unconditionally to a term of imprisonment for a crime or subject to a disciplinary measure for a serious violation of his work obligations and duties;
 - 6) that no criminal proceedings are being conducted against him for a crime committed ex officio, or that disciplinary proceedings are being conducted against him for a serious violation of his work obligations and duties.
- 2) It will be assumed that there is no obstacle to the awarding of a rank provided for in paragraph 1 item 5 of this Article if, in renewed proceedings or upon a request to protect legality, the proceedings are halted, if a verdict of acquittal is rendered, or if the charges are quashed, but not because the court does not have jurisdiction, and it will be assumed that there is no obstacle under paragraph 1 item 6 of this Article if the proceedings are halted, if a verdict of acquittal is rendered, or if the charges are quashed, but not because the court does not have jurisdiction.
- 3) In cases under paragraph 2 of this Article, an authorised official who has met all other conditions established by this law for advancement to a rank shall obtain that rank on the day when these conditions are met.

Article 8

- 1) For an authorised official, the specified period of time spent holding the previous rank referred to in Article 7 paragraph 1 item 3 herein shall be as follows:
 - 1) with a secondary vocational education — five years in the rank of Corporal, Corporal 1st Class, Sergeant, Sergeant 1st Class or Staff Sergeant;
 - 2) with a post-secondary vocational education — five years in the rank of Junior Warrant Officer, Warrant Officer, Staff Sergeant, 2nd Lieutenant or Lieutenant;
 - 3) with a university-level vocational education — two years in the rank of 2nd Lieutenant, four years in the rank of Lieutenant or Captain, five years in the rank

of Major or Lieutenant Colonel, a total of 15 years in the ranks of 2nd Lieutenant, Lieutenant, Captain, Major, Lieutenant Colonel or Colonel, and one year in the rank of Major General or Lieutenant General.

2) A calendar year in which the authorised official is given a negative assessment or in which he was absent from work for a period of over six months, except for work-related illness or an injury suffered while discharging his duties or on account of discharging his duties, will not be considered time spent in the previous rank as per paragraph 1 of this Article.

Article 10

The President of the Republic may, at the recommendation of the Minister of the Interior, award exceptional promotion to an authorised official with a senior officer rank to the rank of General, or an authorised official from the rank of General to a higher General rank.

ANNEX 3

1D622, Introductory Statement by Mr. Milan Milutinović, President of the Republic of Serbia at the Talks with the Representatives of the National Communities in Kosovo and Metohija, Priština, 18 November 1998



REPUBLIC OF SERBIA
PRESIDENT

INTRODUCTORY STATEMENT

by Mr. Milan Milutinović, President of the Republic of Serbia
at the talks with the representatives of national communities
in Kosovo and Metohija

Pristina, 18 November 1998

Distinguished Gentlemen,

I would like to express my great pleasure at having the representatives of all national communities living in Kosovo and Metohija present at this meeting.

I view this as a big interest in the promotion of political process and continuation of the dialogue through which we will jointly arrive at the solutions to the problems in Kosovo and Metohija.

Assessing that the conditions have been created to have a direct meeting and talks to seek political solutions to the problems in Kosovo and Metohija, I considered it necessary to personally chair this meeting.

Distinguished Gentlemen,

The major breakthrough and the greatest contribution to the continuation of political process in Kosovo and Metohija was made by the agreement between the President of the Federal Republic of Yugoslavia Slobodan Milošević and Ambassador Richard Holbrooke. It represents the definite agreement with the international community to have the problems in Kosovo and Metohija resolved peacefully by political means. The Agreement was supported by the Governments of the Republic of Serbia and of the Federal Republic of Yugoslavia, and it has also been overwhelmingly supported by the citizens of our country. The agreement brought enormous relief in Kosmet. The international community endorsed it through the decisions of the UN Security Council and the Organization for Security and Cooperation in Europe (OSCE).

The Agreement represents a basis comprising clear principles committing all national communities to seek solutions to the problems in Kosovo and Metohija through dialogue, in a peaceful manner. It provides the conditions to make it operational through a meaningful dialogue, and arrive at just and democratic solutions; to encourage the forces of peace and tolerance; to open a chapter of development

and ensure the future for all national communities and all citizens in Kosovo and Metohija.

Serbia is firmly committed to having the problems in Kosovo and Metohija resolved politically. Serbia is a civil State and it does not divide its citizens according to their national, religious or any other background. But at the same time, Serbia is a multi-ethnic, multi-confessional and multi-cultural State guaranteeing to all national communities additional rights for the preservation and expression of their national identity, script, language, religion, customs, culture and tradition.

I would like to underline that peace and common life are possible in Kosmet only with genuine, not just formal equality of all national communities. This has been confirmed by the fact that we have honored all obligations and deadlines set forth in the agreements with the international community; that civilian structures are functioning and getting stronger by the day in Kosmet; that the situation in all fields, particularly economic, social and humanitarian is being increasingly normalized in Kosmet.

It is necessary to ensure peace and security in the interest of all, to reach democratic, just and acceptable solutions, proceeding from clearly defined principles, established political framework and the best forms.

As far as the principles are concerned, the basic ones are: equality of all national communities; additional rights with a view to preserving the identity of a national community.

As far as political framework is concerned – legal, i.e. constitutional framework of our country is broad enough to ensure consistent implementation of international standards in the field of protection of rights of national communities, with full respect of the existing practice.

Once the above is honored, the form is clear – democratic self-governance within the Republic of Serbia, and consequently, in the Federal Republic of Yugoslavia. In that respect, it should be clear to all that any solution for Kosmet has to respect the territorial integrity

and sovereignty and internationally recognized borders of the Federal Republic of Yugoslavia, in accordance with the fundamental principles of the Charter of the United Nations, Helsinki Final Act and the OSCE Paris Charter.

I would particularly like to emphasize that the solutions should be based on the respect and equality of all citizens and national communities in Kosmet. It practically implies that each national community shall enjoy additional rights enabling them to preserve and express their national, cultural, religious and linguistic identity, in line with accepted international standards. All of this will be realized through democratic self-governance through parliamentary, executive and judiciary authorities and local police which will be constituted through direct, democratic and multi-party elections, once the necessary conditions are ensured.

It is highly important that the political solution embrace the position that no national community shall realize its additional rights to the detriment of other national communities and that they will pursue a constructive approach in searching concrete institutional models to use the rights they are granted.

There is no true agreement without compromise, without building confidence and mutual respect and tolerance. In that context, the State shall, in appropriate legal procedures, i.e. in line with the legislation, offer amnesty to all persons proven not to have committed the crimes against humanity and international law; it will mitigate the sentences to those who cooperated with investigative authorities, were forcibly drafted or voluntarily handed over arms.

With all those measures, we wish to encourage trust and accelerate the political process. Only in this we see the preconditions to solve the problems in Kosovo and Metohija which will enable the national communities to realize democratic self-governance, guarantee territorial integrity and sovereignty of our State, ensure peace and development in Kosovo and Metohija but also stability in the region of the Balkans and South-Eastern Europe and the inclusion of the peoples and States from these parts in broader political, economic, cultural and other integration processes, organizations and institutions.

Distinguished Gentlemen,

We need relatively fast solutions but we also need patience to reach them. We need the solutions which will not take us back in any respect – be it legal arrangement or institutions, there is no going back to the times that generated the problems. We need modern democratic solutions which will guarantee to all national communities full equality, prevent the abuse of majority vote, while creating the conditions for development, better life and high living standards of all citizens.

Though it is easy to say, it is difficult to define it in one act, in one agreement. It is even more difficult to have everybody respect it. But it is our shared obligation to jointly reach such solutions. Of course, all well-intentioned outside ideas are welcome, those that can help us reach a political solution, but no one except those at this table and the citizens of Kosmet themselves, can do a better job defining that.

I therefore expect your constructive contribution in our today's talks.

I expect your proposals, ideas, suggestions, comments; when you make them, I expect you take into account the ideas of other national communities; when you criticize, I expect you to take into account the interests of others living with you in Kosmet; I expect you to recognize the responsibility we have towards the members of all national communities, towards all citizens and the international community.

I repeat my deep conviction – the future of Kosovo is in peace, equality, common life, development and not in conflicts and divisions, on any grounds.

In order to achieve that, we need courage, commitment, we need to be well organized and patient. Accelerated political process has permanently discarded force as a way of thinking and resolving this problem and it will reinforce tolerance, understanding and trust. This approach is the best way to eliminate all exclusiveness, extremism and hatred.

Serbia has reaffirmed, both by its state policy and at the diplomatic level, that it is firmly committed to a political way of resolving the problems in Kosovo and Metohija. Exactly for being consistent in this approach, I emphasize that Serbia is ready to fully defend and ultimately defend the achieved peace and safety of all its citizens.

Nothing can be gained by terrorism, and the latest attacks of the defeated terrorist gangs will not derail the political process. Nevertheless, those attacks of terrorist gangs against security forces should be energetically prevented. They should also be condemned by the international community and by all Albanian political parties. That would be a proof that they, too, are committed to a peaceful resolution of the problems. That would eliminate any doubt among the terrorists that they enjoy any backing or support.

I would particularly like to emphasize that the future of Kosmet is not in conflicts and attempts at apartheid or self-imposed isolation of national communities. Kosmet has vast economic and natural resources and they can and should be rapidly used to ensure better life of all those living in this province of Serbia. Our goal is to open up the perspective of development of Kosovo, and end the spiral of conflicts, xenophobia, chauvinist, religious and historical prejudice, in short - all that divides our peoples and nations. That is the future of Kosmet.

It is up to us to open up the perspectives for such future.
I wish this meeting to be a major contribution to that goal.

ANNEX 4

1D623, Concluding Remarks by Mr. Milan Milutinović, President of the Republic of Serbia at the Talks with the Representatives of the National Communities in Kosovo and Metohija, Priština, 18 November 1998



REPUBLIC OF SERBIA
PRESIDENT

CONCLUDING REMARKS

by Mr. Milan Milutinovic, President of the Republic of Serbia
at the talks with the representatives of national communities
in Kosovo and Metohija

Pristina, 18 November 1998

Distinguished Gentlemen,

I assess our today's talks as positive, both in terms of the presence of all national communities and the way we held our discussions, including the ideas that were presented, and readiness to continue in the same vein and jointly come to the outcome acceptable to all.

Unfortunately, our meeting today was not attended by the representatives of leading political parties of Albanians from Kosmet. This is not the first time that they did not respond to our calls to a political dialogue. Such an attitude of these political parties in itself, speaks a lot to our public and all those well-intentioned in the world because any further delay and refusal, under lame and transparent excuses and conditionalities, can only result in derailing the process of searching political solutions.

Moreover, this is contrary to the interests of Albanian national community itself as well as against the interests of all those living in Kosovo and Metohija. On the other hand, it serves the interests of those forces who seek to turn this region into a testing ground to pursue their own goals. By acting in this manner, these parties are used as a pretext for further pressures against our country.

That is why, regardless of their failure to attend the meeting today, we remain patient and open for a constructive dialogue as the only way to reach the solution which will be in the long-term interest of all those living and working in Kosovo and Metohija.

In that sense, I personally stand ready, once the representatives of these political parties so decide, to meet with them at any time and discuss the vital issues we discussed here today.

I wish to thank all individual representatives of each national community present here for their constructive contribution, ideas, proposals and suggestions. It is good indeed that we discussed all questions in a democratic and open manner; in a manner not ruling out anything, leaving enough room for further discussions, for new

proposals and ideas in the pursuance of better and more acceptable solutions to all.

The participants in the debate advanced critical remarks regarding the paper presented by Ambassador Christopher Hill. The remarks are legitimate and I assign to them. The above paper does not rely on the Milosevic-Holbrooke Agreement as a whole, it does not respect full equality of all national communities in Kosmet and is in many respects contrary to the legal system of the Republic of Serbia and of the Federal Republic of Yugoslavia.

I therefore feel personally obliged – in view of the positions and opinions presented here - sometimes conflicting, pertaining to the important issues under discussion - and I shall personally engage, with the help of all of you, to have your proposals and ideas once again considered, further elaborated and, in line with basic initial principles, respected to the fullest. Practically, it implies that I would again talk to a representative of each national community assigned by you, and if possible, with the representatives of political parties of Kosmet Albanians not present here – in order to be able advance my position accommodating the comments and suggestions with a view to working out a platform for a political solution to the problems in Kosovo and Metohija.

I hope that at our next meeting we shall be able to embark upon a meaningful dialogue on the platform to reach concrete solutions.

Distinguished Gentlemen,

I am convinced that we have opened a new page in the dialogue leading to the political solution in the interest of all citizens and national communities living in Kosovo and Metohija. It is what they expect and demand from us. I express my conviction that by resuming these talks soon, we shall live up to their expectations.

ANNEX 5

1D91, Joint Proposal of the Agreement on the Political Framework of Self-Governance in Kosovo and Metohija, Belgrade, 20 November 1998

The political solution to the problems in Kosovo and Metohija was considered in Pristina on 18 November and in Belgrade on 19 November, with the delegations of the National Party of Kosovo, Kosovo Democratic Initiative, representatives of the National Community of the Turks, National Community of the Gorancies, National Community of Muslims, National Community of Romanies, National Community of Egyptians, representatives of Parliamentary parties from Kosovo and Metohija, as well as with the representatives of the Socialist Party of Serbia and Presidents of the Serbian Radical Party and the Yugoslav United Left Party. President Milutinović also held consultations on the same issues on 20 November with the Presidents of the Serbian Renewal Movement, New Democracy and Alliance of the Vojvodina Hungarians.

At all these talks and consultations, full support was given to the Agreement between President Milosevic and Ambassador Richard Holbrooke, particularly to the political framework for the resolution of problems in Kosmet, expressed in 11 points of the Government of Serbia. Also, many concrete comments and suggestions were made on the ways to achieve an institutionalized and political solution to the problems in Kosovo and Metohija.

The result of all these talks and consultations is the following:

JOINT PROPOSAL OF THE
AGREEMENT
ON THE POLITICAL FRAMEWORK
OF SELF-GOVERNANCE IN KOSOVO
AND METOHIJA

Belgrade, 20 November 1998

Signatories to this Agreement,

Considering that, in view of the complex national structure in Kosovo and Metohija, it is necessary to protect the development and existence of each individual national community;

Firm in their commitment to the position that all national communities, regardless of their numbers, are mutually equal and that, therefore, in relations among them there can be no discrimination;

Considering that persons belonging to all national communities in Kosovo and Metohija should be enabled to exercise fully their ethnic, cultural, linguistic and religious identity, in accordance with the highest international standards and basic documents of the United Nations, Organization on Security and Cooperation in Europe, Council of Europe (the Charter of the United Nations, Universal Declaration on Human Rights, Helsinki Final Act, Paris Charter, European Convention on Human Rights, Council of Europe Framework Convention on the Rights of the Persons belonging to National Minorities), etc;

Considering that it is necessary to set up appropriate democratic institutions in order to create the atmosphere of tolerance and dialogue;

Determined in their position that broad self-governance within national communities and in the territory of Kosovo and Metohija is a precondition for overcoming inter-ethnic tensions and conflicts;

Bearing in mind the most positive experience and legal solutions developed through long-standing common life;

Have agreed as follows:

I. PRINCIPLES

1. Political approach and peaceful solution of problems in Kosovo and Metohija achieved through dialogue are the only acceptable way to reach a lasting, just and humane solution to all outstanding questions;
2. All solutions for Kosovo and Metohija must respect the territorial integrity and sovereignty and internationally recognized borders of the Federal Republic of Yugoslavia, in compliance with the basic principles of the UN Charter, the Helsinki Final Act and the Paris Charter of the OSCE.
3. The solution has to be based on full respect of equality of all citizens and national communities in Kosovo and Metohija. Full affirmation and equal treatment of their national, religious, cultural values as well as historic heritage shall be guaranteed;
4. The future of Kosovo and Metohija lies in peace, equality, integration, economic prosperity and free and common existence, not in ethnic, religious, cultural or any divisions and isolation;
5. The legal arrangements establishing self-governance in Kosovo and Metohija should be in line with legal systems of the Republic of Serbia and of the FR of Yugoslavia, and with international standards and basic documents;
6. Citizens of Kosovo and Metohija shall exercise their rights democratically through assembly, executive, and judicial organs.
7. Citizens and members of each national community in Kosovo and Metohija shall enjoy, without limitations, human and democratic rights and shall have the opportunity to be represented in all organs of authority.
8. Members of national communities shall have additional rights, in order to be able to express and preserve their national, cultural, religious, and linguistic identity, in accordance with international standards and fundamental international documents.

The national communities and their members shall be equal before the law, they shall abide by all State laws and shall not use their additional rights to endanger the rights of other national

communities or other rights of citizens, especially territorial integrity and state sovereignty of the Federal Republic of Yugoslavia.

9. The responsibilities of organs in Kosovo and Metohija shall be set forth in this Agreement. The organs in Kosovo and Metohija acting within their competencies, shall be independent.
10. All citizens of Kosovo and Metohija shall have the right to apply to international institutions, including the European Court of Human Rights, for the protection of their rights, after all legal means envisaged by domestic legislation are exhausted.

II. RIGHTS OF CITIZENS

1. The rights of citizens of Kosovo and Metohija shall be realized through assembly, executive and judicial organs established by this Agreement. These rights make up democratic self-governance, including:
 - the adoption of the Statute of Kosovo and Metohija;
 - the adoption of regulations on the organization and procedures of organs of Kosovo and Metohija;
 - adoption of the budget and annual accounts;
 - regulation and provision of child care;
 - establishment and regulation of the functioning of health institutions and hospitals, except those owned by the State;
 - protection of environment;
 - regulation of trade and private stores in accordance with republican and federal laws;
 - regulation of hunting and fishing;
 - planning and execution of public works of communal importance or of importance to Kosovo and Metohija;
 - regulation of the land use, town planning and civil engineering, in accordance with republican and federal regulations;
 - adoption and implementation of programs of economic, scientific, technological, demographic, regional and social development, as well as programs for development of agriculture and rural areas;
 - adoption of tourism development programs, catering and sports;
 - organization of fairs and local markets;

- setting up of public services of communal importance and of importance to Kosovo and Metohija;
 - financing of the activities of communal organs and organs of Kosovo and Metohija.
2. The organs of Kosovo and Metohija shall not interfere with the additional rights of the members of national communities.
 3. A commune shall be the basic unit of local self-governance.

III. ADDITIONAL RIGHTS OF MEMBERS OF NATIONAL COMMUNITIES

1. The members of national communities shall have additional rights set forth this Agreement. The additional rights shall preserve and express national, cultural, religious, and linguistic and other characteristics of members of national communities, in accordance with international standards and the Helsinki Final Act.
2. National communities shall be equal in terms of law and may not use their additional rights to threaten additional rights of other national communities or rights of citizens of the Republic of Serbia or of the Federal Republic of Yugoslavia.
3. Each national community shall elect, in accordance with procedures it shall establish, a National Council which will make decisions on additional rights of national communities in Kosovo and Metohija. Each Council shall establish its own executive organs.
4. Additional rights of the national communities include:
 - Using their language and alphabet;
 - Inscribing local names of towns and villages, squares and streets, and of other topographic names, in the language and alphabet of the national community, along with inscriptions in Serbian;
 - Providing information in the language and alphabet of the national community.

- Establishment of educational, cultural and religious associations, to which the State authorities will provide financial assistance.
- Maintenance of unimpeded contacts with their respective national communities outside the Federal Republic of Yugoslavia.
- Using and displaying national symbols, along with the State symbols of Serbia and the FR of Yugoslavia;
- Providing education, in particular for schooling in their own language and alphabet, in subjects related to national culture and history. National communities are encouraged to coordinate curricula with the republican authorities concerning some subjects (for example to ensure that pupils satisfy certain standards in subjects like math or science);
- Protection of national customs in the field of family law, if a community so decides, by establishing regulations in the field of heritage, family and matrimonial relations, adoption and tutorship;
- Each commune shall be able to establish a procedure for resolving disputes in these areas, with the consent of the parties to a dispute. These regulations have to be in accordance with internationally recognized human rights;
- Protecting the sites of religious, historical, or cultural importance to national communities.
- Setting up public health and social services;
- Operation of religious institutions in cooperation with religious authorities.
- Determining procedures of the courts of national communities as provided for in this Agreement and ensure the funds for the implementation of the decisions of those courts;
- Guaranteeing the right to at least one radio and TV frequency, which it shall administer subject to non-discriminatory technical standards;
- Financing activities of national communities by collecting duties which the National Council decides to levy on members of its own community.
- Participating in regional and international non-governmental organizations in accordance with the procedures of these organizations;
- Having equal access to employment in public services.

IV. THE ORGANS OF KOSOVO AND METOHIJA

1. The Assembly

1. The Assembly shall be elected directly. The Assembly shall have two Chambers: Chamber of Citizens and Chamber of National Communities.
2. Members of the Chamber of Citizens shall be elected directly in line with the principle one citizen - one vote.
3. Members of the Chamber of National Communities shall be elected democratically, within each national community. Each national community shall have a delegation with equal number of members in the Chamber.
4. The Assembly shall be responsible for:
 - the adoption of the Statute of Kosovo and Metohija;
 - making decisions and adoption of other acts regulating some questions related to rights of citizens of Kosovo and Metohija;
 - the adoption of budgets and annual accounts;
 - cooperation with Federal and Republic Assemblies;
 - financing activities of the organs established by this Agreement;
 - coordination among communes or national communities when necessary, including decisions concerning inter-communal issues, and
 - election of members of the organs set forth in this Agreement.
5. Decisions of the Assembly shall be taken by majority in both Chambers, except as provided for in paragraph (6).
6. If members of one national community assert that a proposed decision affects the vital interests of this national community, such decision shall require majority vote, which includes the majority among the members of that national community delegation in the Council of National Communities.
7. If a decision cannot be taken on account of reasons referred to in paragraph 6, but needs to be taken, the National Assembly of Serbia shall make an interim decision pending the one taken pursuant to paragraph 5.

8. The Assembly shall elect the Presidency of the Assembly which shall consist of one representative from each national community. The Presidency shall have a President, which function shall rotate among members of Presidency each year, in alphabetical order.

The Presidency shall be responsible for:

- calling the meetings of the Assembly and proposing the agenda;
- representing the Assembly;
- regular contacts with National Councils and other representatives of the national communities in order to facilitate the work of the Assembly.

Each national community shall be represented in the leadership of the Assembly. The President of the Presidency of the Assembly cannot be a member of the same national community as the President of the Executive Council and Ombudsman.

2. Executive Council

Executive Council shall exercise executive power.

The Council shall comprise at least one person from each national community. Members shall be proposed by the Presidency of the Assembly and shall be elected by both Assembly Chambers on the basis of equality.

The Executive Council shall be responsible for implementing the decisions of the Assembly and regulations of the State authorities, when authorized for their implementation.

Decisions of the Council shall be adopted by majority vote of Members present and voting, except on questions affecting vital interests of a certain national community. In that case, the principle valid for voting in the Assembly shall apply.

3. Administrative organs

The administrative organs of Kosovo and Metohija shall have responsibility for the implementation of decisions and general acts, in accordance with this Agreement.

Executives in administrative organs in Kosovo and Metohija shall be representative of the local population.

4. Ombudsman

The Ombudsman shall monitor the realization of the rights of members of national communities.

The Ombudsman shall be nominated by the Presidency of Assembly and shall be elected by the Assembly, each term from another national community.

The Ombudsman shall have a right to review the acts and unimpeded access to any person or place and shall have the right to appear before any domestic organ.

V. THE COMMUNES

1. Communes shall be basic units of self-governance.

2. Each commune shall have an Assembly and Executive Council and such administrative organs established by Executive Council. The organs of a commune shall be organized along the same principles as the organs of Kosovo and Metohija.

3. The duties of local self-governance in a commune include:

- Providing child-care;
- Health institutions and hospitals, except those owned by the State;
- Educational institutions except those State-owned;
- Protection of environment;
- Public works of communal or regional importance, including roads and water supplies.
- Land use;
- Tourism, hotel industry, catering, and sport.
- Fairs and local markets.
- Public services of communal importance, including fire department, emergency response, and local police.
- Financing the work of communal organs, levying duties in accordance with the law.

VI. REPRESENTATION OF THE CITIZENS OF KOSOVO AND METOHIJA IN FEDERAL AND REPUBLIC BODIES

1. Citizens of Kosovo and Metohija shall be represented by at least ten deputies in the Chamber of Citizens of the Federal Assembly and at least twenty deputies in the National Assembly of the Republic of Serbia.
2. From among the citizens of Kosovo and Metohija at least one member shall be elected to the Federal Government and the Government of the Republic of Serbia.
3. From among the citizens of Kosovo and Metohija at least one judge in the Federal Court and three judges in the Supreme Court of Serbia shall be elected.
4. There shall be a Council of the Republic of Serbia for the protection of the rights of the members of national communities. The President of the Republic of Serbia shall preside over the Council of the Republic of Serbia for the protection of the rights of members of national communities.

VII. COURTS AND LOCAL POLICE

1. Courts of National Communities

Each national community may establish, in accordance with the law, courts and determine procedures for resolving disputes concerning inheritance, family law, matrimonial relations, tutorship, adoption and trials for which imprisonment of up to one year is prescribed by the Penal Code. The competence of these courts may be established only if parties to a dispute agree.

The judges shall be appointed by the National Councils and approved by the Assembly. The judges of these courts have to meet criteria necessary for the selection of judges in the corresponding State courts.

2. Local police

Each commune may, if it so decides, establish its local police representative of the population in the commune.

The local police shall be trained in specialized state police schools to respect human rights, particularly the rights of national communities.

The members of local police shall be sworn in to uphold the law impartially, fairly, equally treating all persons.

The local police shall be responsible for the maintenance of public order.

The members of the local police may use, as means of coercion, only guns, rubber truncheons and handcuffs and passenger transportation vehicles and adequate means for communication. The members of the local police cannot use means of coercion against the members of another national community.

If necessary, local police shall be obliged to place itself under control of the State police in fulfilling its tasks in accordance with the law.

A commune may establish a commission to monitor the work of local police. Each national community in a commune shall have the right to participate in the work of the commission.

VIII. FINANCING

1. The organs established in Sections II-IV shall be entitled to income from their own duties and to a share of State taxes.
2. In view of the fact that this Agreement establishes new responsibilities for the organs of Kosovo and Metohija, the Republic and Federal authorities shall consider possibilities to ensure additional resources to exercise the competencies of the organs in Kosovo and Metohija established by this Agreement. These resources shall include funds (plus tax deductions), equipment and training.

IX. CONFIDENCE-BUILDING MEASURES

1. No person shall be prosecuted for acts related to the conflicts in Kosovo and Metohija except for crimes against humanity and

international law as set forth in Chapter XVI of the Federal Penal Code. In order to facilitate transparency, the State shall grant access to foreign experts (including forensics), along with state investigators.

2. The competent organs shall, through the relevant judicial procedure based on the law, grant amnesty to persons for whom it is proved that they had not committed crimes against humanity and international law, mitigate the sentences to those who cooperated with investigative authorities, those who had been forcibly drafted or voluntarily handed over weapons.

X. IMPLEMENTATION OF THE AGREEMENT

1. The signatories to this Agreement undertake the obligation to implement it as soon as possible.
2. The State authorities shall undertake the amending of regulations necessary for the implementation of the Agreement, without delay.
3. Within nine months, there shall be free and fair elections for all organs in Kosovo and Metohija. The Government of the FR of Yugoslavia invites the OSCE to monitor the elections.
4. The competent State organs shall organize, as soon as possible, an objective and free census of the population in Kosovo and Metohija, under the OSCE supervision. The census shall provide necessary information on the places of residence, citizenship, voter lists, and other data relevant for conducting elections.
5. The signatories to this Agreement shall extend active support and cooperation to, and shall participate in the implementation of the Agreement.
6. The State authorities shall ensure initial and necessary conditions for the functioning of organs established by this Agreement.

XI. AMENDMENTS

1. Amendments to this Agreement shall be made by agreement of the signatories.
2. Each signatory may propose amendments to this Agreement. The signatories undertake to duly consider proposed amendments.
3. After three years, the signatories shall comprehensively review this Agreement with a view to improving its implementation and shall consider the proposals of any signatory for additional measures, whose adoption shall require the consent of all signatories.

XII. FINAL PROVISIONS

1. This Agreement is concluded in the Serbian language and the languages of national communities (Albanian, Romany, and Turkish) in Kosovo and Metohija.
2. This Agreement shall enter into force on the day of its signature.

FOR THE REPUBLIC
OF SERBIA

FOR THE NATIONAL
COMMUNITIES IN KOSOVO AND
METOHIJA (in alphabetical order)

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-
-
-
-

FOR THE FR OF YUGOSLAVIA

ANNEX 6

1D620, Priština Declaration, 25 November 1998. 1D671 *Politika*

Representatives of national communities and political parties - National Party of Kosovo, Kosovo democratic Initiative, national Community of Turks, National community of Goranies, National Community of Muslims, National Community of Romanies and National Community of Egyptians, together with the representatives of parliamentary parties from Kosovo and Metohija, with the representatives of parties in the National Assembly of Serbia and the State delegation, at the meeting in Pristina of 25 November 1998, with respect to the joint proposal of the Agreement on the political frameworks of self-governance in Kosovo and Metohija, adopted the following:

D E C L A R A T I O N

1. The signatories to the Declaration assess that the joint proposal of the Agreement on the political frameworks for self-governance in Kosovo and Metohija represents a just and democratic political solution to the problems in Kosmet and emphasize that its adoption and implementation will be of key importance to peace, stability and development of this Province.
2. The signatories to the Declaration assess that the Joint Agreement on political frameworks for self-governance in Kosovo and Metohija entirely affirms full equality of all national communities, as well as that all legal solutions for the establishment of self-governance in Kosovo and Metohija should be in accordance with the legal systems of the Republic of Serbia and the FR of Yugoslavia, as well as with the international standards and basic documents.

It was jointly assessed that broad self-governance, based on the equality of national communities, is a cornerstone for the political solution and a condition for overcoming tensions and conflicts.

3. The signatories to the Declaration particularly point out that the proposed Agreement defines principles, creates institutional prerequisites of the broad democratic self-governance of national communities in Kosmet, sets forth the rights and obligations and ensures that they be efficiently realized and protected within the rule of law - in the interest of every national community and all citizens in Kosovo and Metohija.

They point out that the proposed Agreement provides a new atmosphere of tolerance, dialogue, trust and life and work in peace, freedom and equality.

4. The signatories to the Declaration decide to establish a single Commission to organize the elaboration of legal documents and undertake necessary acts and procedures in the process of realization of the jointly proposed Agreement.

The Joint Commission will be composed of members of the State delegation, representatives of national communities and representatives of political parties in Kosovo and Metohija.

5. The signatories to this Declaration invite all other political parties from Kosovo and Metohija to join the Agreement, i.e. to consider the Agreement open for accession by all other parties, and as an invitation to make their full contribution (through observations, suggestions and in other ways) to its elaboration and realization in the interest of all people living in Kosmet, in the interest of peace, development and prosperity.
6. This Declaration has been signed in Serbian and in the languages of the members of national communities (Albanian, Turkish) in Kosovo and Metohija.

For the Republic of Serbia:
Dr Ratko Markovic

For the national and political
parties in Kosovo and Metohija:

Kosovo Democratic Initiative
Faik Jasari

National Party of Kosovo
Argon Abazi

National Community of Goranies
Ibro Vait

National Community of Egyptians
Cerim Abazi

National Community of Muslims
Refik Senadovic

National Community of Romanies
Ljuan Koka

National Community of Turks
Zejnelabedin Kurejs

Democratic Party of Turks
Sadik Tanjol

Parliamentary parties from
Kosovo and Metohija
Radenko Krulj

For the FR of Yugoslavia:
Dr Vladan Kutlesic

ПОЛИТИКА

ВЛАДИСЛАВ РИБНИКАР, ОСНИВАЧ
ред. листета, починуо 1. септембра 1914. године
ДАРКО РИБНИКАР, УРЕДНИК
ред. листета, починуо 31. августа 1914. године
Др СЛОБОДАН РИБНИКАР, ДИРЕКТОР
ред. листета, умро 24. септембра 1924. године
ВЛАДИСЛАВ СЛ. РИБНИКАР, ДИРЕКТОР
оснивач Партизанске споменице 1941.
умро 1. децембра 1955. године

Први број „Политике“ изашао 25. јануара 1904. године

ПРИМЕРАК 3,00 ДИН.

Лист излази сваког дана – РИШОПСКИ СЕ НЕ
ВРАЋАЈУ – ПРЕПЛАТА ЗА НАЈДУ ЗЕМЉУ: МЕСЕЧНО
100,00 ДИНАРА, ПОТКОМ ПОПОЉУДНИЦА 140,00
ДИНАРА, НЕДЕЉНО, ПОПОЉУДНИЦА 140,00 ДИНАРА.

БЕОГРАД, ЧЕТВРТАК 26. НОВЕМБАР 1998.
Број 30567 – Година ХСВ

Централа: 322-33-01, 322-37-01. Сиротини: 322-58-02
Деловни уредник: 322-17-04. Београдски хроника: 322-34-02
Огласно: 322-58-07. Преплата – тел. и факс: 322-47-70.
Продајно: 322-28-55, 322-14-09. Телекс: 11-410, 11-418.

Политика
МАКЕДОНСКА 29

ЈУЧЕ У ПРИШТИНИ, ПРЕДСТАВНИЦИ НАЦИОНАЛНИХ ЗАЈЕДНИЦА И ПОЛИТИЧКИХ ПАРТИЈА, У ПРИСУСТВУ ПРЕДСЕДНИКА РЕПУБЛИКЕ СРБИЈЕ, ПОТПИСАЛИ ДЕКЛАРАЦИЈУ ПОВОДОМ ЗАЈЕДНИЧКОГ ПРЕДЛОГА СПОРАЗУМА О ПОЛИТИЧКИМ ОКВИРИМА САМОУПРАВЕ НА КОСОВУ И МЕТОХИЈИ

Праведно и демократско политичко решење

Састанку коме је лично председавао Милан Милутиновић поред државне делегације присуствовали и Народна партија Косова, Косовска демократска иницијатива, Национална заједница Турака, Национална заједница Горанаца, Национална заједница Муслимана, Национална заједница Рома и Национална заједница Египћана као и представници парламентарних партија са Косова и Метохије и представници партије у Народној скупштини Србије. – Нова клима толеранције, дијалога, поверења и мишља и рада у миру, у слободи и равноправности. – Позив и сави осталим политичким партијама на Косову и Метохији да се придруже Споразуму

Приштина, 25. новембра

На данашњем састанку државне делегације са представницима националних заједница и парламентарних партија Косова и Метохије, председавао председник Републике Србије Милан Милутиновић, учесници су усвојили и потписали Декларацију којом се подржава Заједнички предлог Споразума о политичким оквирима самоуправе на Косову и Метохији.

Потпис на овај, како је назван, историјски документ, за Републику Србију ставили су Ратко Марковић, потпредседник Републике, за Савезну Републику Југославију, Вахид Кучулић, специјални изасланик председника СРЈ, представници националних заједница Горанаца, Египћана, муслимана, Рома и Турака, као и представници Косовске демократске иницијативе, Народне партије Косова и представници парламентарних партија са Косова и Метохије.

Данашњем састанку, осим представника поменутих националних заједница које живе на овим просторима, присуствовали су и потпредседник Савезне владе Никола Шановић, потпредседник Владе Републике Србије Ратко Марковић, Милош Јовић и Томислав Николић, републи-

лички министар Ивица Дачић, председник привременог Извршног већа Косова и Метохије Зоран Албуковић, председник косметских социјалиста Војис-

лав Жижковић, као и посланици у савезној и републичкој скупштини Раденко Крул, Звонимир Стевић и Љубиша Степановић. (Наставак на 13, 14 и 15. страни)

У овом броју:

ОГЛАСИ

Највиражнији додаток који „Политика“ поклања четворобројима.

Овом тајмом Републике ТАКА Скупштина усвоје административне

Страна 11

Страна 21

Страна 24

Страна 27

Страна 27

Страна 31

ОБЕЗБЕДНОСТ У КОМПАНИЈИ НИС ЈУГОПЕТРОЛ Уручана признања спонзорима кооперативне репрезентације

Страна 31

Страна 30

Страна 8

Страна 4

Страна 4

Страна 4

Страна 4

Страна 4

Страна 4

Страна 4

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Страна 4

ПРЕДСЕДНИК НР КИНЕ ДОПУТОВАО У ПРВУ ЗВАНИЧНУ ПОСЕТУ ЈАПАНА

Мисија за будуће партнерство

„Важно је с пуном озбиљношћу осврнути се на кинеско-јапанске односе и историјска искуства како би се убудуће развијале билатерална пријатељска веза и сарадња“, саопштио је Ђијанг Џеџин по доласку на токијски аеродром Ханеда

(Ројтерс за „Политику“)

Токио, 25. новембра

Кинески председник Ђијанг Џеџин почео је данас шестодневну посету Јапану. Циљ је, између осталог, успостављање партнерства између азијских економских и војних циљева у 21. веку.

Ђијанг, први шеф државе НР Кине у званичној државној посети

Јапану, има деликатну мисију. Циљ је утврђивање веза Пекинга и Токија чиме би оставили за собом немиру прошлости у Другом светском рату и ублажили тензије ово



Руководила Ђијанг и Ђуџија

јапанско-америчких одбрамбених аранжмана.

Ђијанг је по доласку изјавио да ове године обележава 50. годишњицу од потписивања Јапанско-китеског споразума о миру и пријатељству и да данас Кина тежи да се удаљи од прошлости и да отвори пут за будуће билатералне односе.

„Важно је с пуном озбиљношћу осврнути се на кинеско-јапанске односе и историјска искуства како би се убудуће развијале билатералне пријатељска веза и сарадња“, саопштио је кинески председник по доласку на токијски аеродром Ханеда.

Шестодневном посетом провејавају кинески захтеви за јаче и позитивно изјављивање Токија за ратне злочине из Другог светског рата и саопштења „без компромиса“ о Јапану.

Известно обезбеђење од око 10.000 полицајаца налази се на улицама јапанске престонице.

Уочи Ђијангове доласка, десетина хиљада демонстраната изашли су на улице укупно на око 20 камиона опремљених звучницима преко којих су гласно протествовали због мо-

У СУБОТУ, 28. НОВЕМБРА

Четвороброј „Политике“ на више од сто страна

Поводом Дана Републике у суботу излази четвороброј „Политике“ са две додатне: Култура, наука и уметност и „Магизм“

Поводом Дана Републике, у суботу, 28. новембра, „Политика“ објављује четвороброј на више од сто страна.

Приликом четвороброја од три стране рубрика – Магизм – објављује посебан програм за 28, 29, 30. новембар и 1. децембар. За љубитеље спорта предвиђен је спортски додаток на шест страна, а ту су и стране резервације за актуелна знања у шеху и свету путевобилница.

У савременом четвороброју „Политике“, осим три стране посебане заједнице на дошлицу и светској културној сцени, објављује и свој редовни: Културни додаток на осам страна, Читачки листа у овом броју имаће и две стране рубрика: Медицина, Наука, Свет културе, Наука и технологија, Ресурси, Фелтон, Прича.

„Политика“ у суботу на четири стране објављује посебан радио и телевизијски програм за 28, 29, 30. новембар и 1. децембар. За љубитеље спорта предвиђен је спортски додаток на шест страна, а ту су и стране резервације за актуелна знања у шеху и свету путевобилница.

У оквиру савременог броја, као саставни део листа, излази и додаток у боји „Магизм“ на 40 страна.

Не заборавите да код свог продавца на време обезбедите четвороброј „Политике“

ПРВЕНСТВО СВЕТА ЗА ОДБОЈКАШЕ

Југославија у полуфиналу, побеђен светски првак

После бриљантне игре целог тима „лазак“ надиграли Италију са 3:0 (15:12, 15:13, 15:13) и обезбедили учешће у завршним борбама за медаљу

После непуна 24 часа и победе над Холандијом (3:0), олимпијским шампионом из 1996. одбојкаши Југославије су поново били бриљантни савладавши овог пута и Итали-

ју, селекцију још увек званичног светског првака, са 3:0 (15:12, 15:13, 15:13).

Овим изванредним тријумфом „лазак“ су изборили класичан

у полуфинале и завршне борбе у којима ће доћи до коначног расплета и поделе медаља.

Изборили Зорана Гајића, савезног тренера, предвођени браћом Губић, Николом и Владимиром, Гораном Вујасевићем, Вудом Мештером, Андријом Герлећем, Владимиром Батомом и Јеласком Танасковићем одржали су први час из одбојке „лазак“ потпуно их надиграли у мечу за памћење.

Протакли Југославије (данас наша репрезентација игра са Русијом) проведени меч у квалификационој групи у полуфиналу бави скоро сигурно екипа Кубе.

(Опширније на спортским странама)

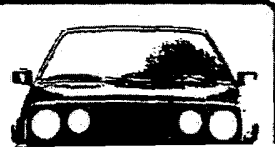
Telekom Srbija
Novi Svet Komunikacija



СВАКОГ ПОНЕДЕЉКА НОВИ ДОДАТАК

ауто

У КОЛОРУ НА 40 СТРАНА



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Srbije

064

УСКОРО! УСКОРО! УСКОРО!

ЈУЧЕ У ПРИШТИНИ, ПРЕДСТАВНИЦИ НАЦИОНАЛНИХ ЗАЈЕДНИЦА И ПОЛИТИЧКИХ ПАРТИЈА, У ПРИСУСТВУ ПРЕДСЕДНИКА РЕПУБЛИКЕ СРБИЈЕ, ПОТПИСАЛИ ДЕКЛАРАЦИЈУ ПОВОДОМ ЗАЈЕДНИЧКОГ ПРЕДЛОГА СПОРАЗУМА О ПОЛИТИЧКИМ ОКВИРИМА САМОУПРАВЕ НА КОСОВУ И МЕТОХИЈИ

ње и ово – траје Југославије. Наша Албанцима не требају комисије које ће говорити језиком који ми не можемо разумети или које морамо брзо-бавно научити. Ја добро разумем српски и Срби добро разумују албански, али не знају ни енглески, ни ништа не може да разуме нешто албанско међусобно и узajemно разумевање и проналажење културе, обичаја, традиција.

Не верујем да наше обичаје, културу и традиције могу више развити Американци, Енглези, Немци, Нигери, Срби, и притома зато нима не пуну да ми самим обичајима оне демократије устанику и институције које ће саман нама на Косову и Метохији обезбедити равноправност, социјалну једнакост, образовање и социјални напредак. Ако се неможе долази Хилс план, онда нама та примена и нека та привлачи, али не овде на Косову и Метохији у Србији у Југославији.

Зашто господари, ми, на пример, не би овакав или сличан план понудили Енглезима за Ирске, Швајцарцима за Баску, Французима за Корзиканцу итд. Ево зашто одбијам и у потпуности одбацујем план господина Хилса, јер не ради у интересу свих националних заједница на Косову и Метохији и овећаше решења која нуди на гарантује мир и стабилност, али које конфирмирају и огроман проблем још већим сепаратистичким партија и албанским терористима. Од господина Хилса и читаве међународне заједнице која је подржала Споразум Холбрука – Милошевић, у име својих сународника и првенствено своје партије тражимо и захтевамо без одлагања да неистинују своје албанске терористе и подршку споразум којим се на овај начин могу обезбедити на Косову и Метохији мир, опшност, слободан проток људи, робе и идеја.

Молим Вас, господине председнице, да не одлучите од овог споразума са највишим степеном демократских решења која и ми подржавамо и првенствено ставоме о одлучити међу политичке партије и огромног броја мојих сународника председнику СРЈ Слободану Милошевићу, да не податке никаким критикама, ултиматумима и да нима не смете о улаз чинишћу да се за Косово и Метохију и његову будућност не питају само Рутве и Деметри, него подједнако и сви ми који не радимо по начелу и дискриминацији, него по начелу свепријатељства. Поручујем да Косово и Метохија ни по коју цену не могу бити филтат за буре бујата на овом делу Балкана.

Ако сам можда у једном тренутку био и емотиван молим Вас немојте ми замјерити јер је сам пре свега Југословен и Албанци и не желим да будем сведок још једног крвавог пара који се овде прикључује.

Господини председнице, уверен сам да ће институције на очување интегритета и суверенитета наше земље, заједно са свима нама – ратом је и ми Албанци Косовске демократије изнетијавме Франк Јашари.

Испред националне заједнице Тера-миса, о предлогу Споразума говорио је Мило Баји, који је рекао да је главна вредност предлога у томе што предлаже решења која омогућавају да све националне заједнице и сви грађани на Косову у погледу права и ауности буду у равноправном положају без икаквих искључивања и дискриминација.

– Ми смо још једном протеклих дана комуникали своје сународнике са личним и политичким решењима. У разговору се јавила осетина да се не осећа олакшање отајко је почео суштински дијалог а посебно после објављивања нашег заједничког предлога Споразума.

Решења су подржана треба да знате. Људима су разумљива. Општи је захтев да се што пре почне са припремом и његовом применом.

Посебно желимо да истакнемо да је Споразум по решењима које предлаже јасан и праживан, да опарационалну споразум председника Милошевића и амбасадора Холбрука и мојав Владе Републике Србије изнату у 11 тачака на практичан начин примењује међународне стандарде о заштити права националних заједница.

Оно што је посебно битно, а чини нам се да још није довољно истакнуто, то је да овај предлог Споразума омогућава нама широки степен демократије самоуправе о питањима која се нас посебно тичу, посебно на питањима која се односе изахидити у нашем традицији, религији и обичајима (други специфична права у односу на наше националне посебности).

Прошли пут смо истаicali и на томе инсистирали, а то је сада у Споразуму прецизно и дефинисано – камен темељац гаранције за наше права јесте и мора да буде државна Србија и Савезна Република Југославија. Ми то желимо, то је по међународном праву и по највишим стандардима. За нас је важно да се у свим предлозима овог нашег заједничког Споразума поштује од основног начелног приступа. Зато овај споразум има нашу пуну подршку, јер то је за нас највећа и права гаранција да ћемо права која нам припадају успешно и остваривати.

Од појединих питања која се по нашем дубоком уверењу веома добро решавала изабрајмо бик неколико која сматрамо посебно битним и важним. Улога локалне полиције је добро постављена по концепту, по одлукама, по правилима и одговорностима. За нас је веома важан став из Споразума да припадници локалне полиције неће користити средства принуде против чланова друге националне заједнице, осим у случају самоодбране као и њихових обавеза да се ставе под контролу државне полиције и да јој пруже помоћ у остваривању њених функција. То решења омогућавају да сви понесемо одговорност за јавни ред, али да овим решењем није нарушено функције безбедности што је за све људе и све националне заједнице веома битно.

Пуну пуну подршку и предлози институција на Косову и Метохији је поддржана рационално од општине до покрајине. Да постоје Скупштина и Извршно веће, да ће њихово

литичким средствима и отвореним дијалогом.

– У име наше националне заједнице желимо да изјавимо да ми ошамујемо, а о томе смо разговарали са многим нашим сународницима протеклих дана, од када је Споразум објављен, да овај заједнички предлог представља суштински одговор на косовске проблеме. Главни је да обезбеди да су сви грађани и све националне заједнице на Косову и Метохији равноправни, а једино тако се могу наћи права решења. Да обезбеди да се не губи национални идентитет, да даје широку демократску самоуправу, да формулише решења у оквиру правног система Србије и Југославије, што је наше оправдавање и како једино може бити. То отвара упуле за трајан мир и политичку стабилност у овом делу Србије. Наши грађани га прихватају, то охрабрује, ставе битне поставке за основу поверења и толеранције, трансират за заједнички живот.

Оно што желимо посебно да истакнемо то је да Споразум дефинише принципе које желимо да поштујемо утврђује права и обавезе, успоставља гаранцију за ефикасну заштиту у оквиру укупне владавине права и институција које постоје у нашој земљи. То је у интересу сваког од националних заједница, у интересу сваког грађанина и у интересу свих људи на Косову.

И на самом крају о једном томебасе одлучено питању о којем смо протили пут разговарали – о судској заштити Споразуму омогућава и одређене облике заштите права и интереса пред судским органима у оквиру самоуправе, понавља и поштујући наше посебности на традицији, породице и обичаја, и то је у реду.

Међутим, желимо посебно да истакнемо то што је већ дефинисано у предлогу, да сваки припадник има право да слободно одбере заштиту или од судских органа на демократским самоуправа или пред судским органима државе и да ће се то поштовати. Да гарантује право једнакости

Пресудно и за предлози споразум и за будућност односа на Косову и Метохији је то да постојећи предлози омогућавају афирмацију свих, али да онемогућавају ефикасност. Обезбеди равноправност свих и онемогућавају сваки будући покушај албанских екстремиста који је овде трајала деценијама а којој смо сви били подвргнути јер је та сила мајоритаризације и албанизације која је овде сваке наше личне и породичне агендијавме. То се сада онемогућава овим предлогом, то је суштина, отпониоци су наши правници. Само када смо сви равноправни унапредити се узajemно поштовање и разумевање, повећаће се сарадња међу свим људима и заједницама која на Косову живи. То да убудуће неће бити мајоритаризације много споразум људе на овом простору. Зато ће овај Споразум довести путу подршку и може бити спроведен у живот – осимко је на крају Савадковић.

Представници националне заједнице Египћанин Фарид Абди је у својој сународника са Косметом предлог Споразума оценио као добрососочување мира и оне који одбијају дијалог охарактерисао као суштински препреку на путу постизања тог мира.

Високи Маџорис је нагласио да је за националну заједницу Египћана прихватање сваки демократски споразум у чијем су дефинисано активно учествовале све националне заједнице и где се узajemно сви позитивни предлози који обезбедију услове за миран и равноправан живот свих грађана.

– Ми Египћани нимамо ниско бити контрадикторни у захтевима, као што су поједине заједнице у подршку међународне заједнице, јер сматрамо да је љичемарство непродуктивна особина. Зато изајављујемо страним делегацијама које су и данас на Косову и не чине ништа како би се што пре дошло до потпуног састава учесника у дијалогу.

Зар та господари може да би и остале заједнице требало да стављају проблеме у држави, да да се так онема интересују за њих. Не, ми то неможемо осећати да доволно, ми ћемо ова права тражити у држави у којој живимо, у пуно узаванења интереса и других националних заједница. Сматрамо да је овај предлог Споразума на тај начин донет и у потпуности га прихватамо – рекао је на крају представник националне заједнице Египћанин.



Представници националних заједница и политичких партија са Косметом

конституисање бити наведено на демократски начин путем слободних изаштратичког избора. Да се и у општини, покрајини и оне може доћи у дијалог, а не може и неће тероризмом и нападима. Може само на миран начин, у интересу свих, заснован само на равноправности свих грађана и на равноправности свих националних заједница. Показује да се да решења може доћи само јавно и мора јавно. Ми смо способни за то. Став је да се у томе треба да учествују, људи да се питају, грађане да консултујемо. Ми смо то и учинили. Данас на овом предлогу и са овим предлогом будите сигурни имате пуну подршку преко 180 хиљада припадника муслиманске националне заједнице.

Предлог споразума у основи је вредан као целина јер он представља операционализацију Споразума председника СРЈ Слободана Милошевића и амбасадора Холбрука. Резултат је наших обавезаних консултација, узимања и разраду 11 тачака Владе Републике Србије поводом тог Споразума, предлаже као решења највишег стапала која је дефинисала међународна заједница када је реч о заштити националних мањина. Уважава позитивну међународну праксу у оваквим ситуацијама и због свега тога, он представља, по нашој оцени, савремено демократско решење.

Овај Споразум штити националне заједнице, обезбедиће ми равноправност, ствара институционалну претпоставку за заштиту и остваривање права која нам припадају – ствара услове да његовим усвајањем и реализацијом можемо остварити да ће имати суштински значај за стабилност, демократску самоуправу и мир на Косову и Метохији.

Споразум нам обезбедиће и даје нечрста гаранције да се поштује етнички, културни, језички и верски идентитет сваког припадника националне заједнице и ствара одговарајуће услове по правилима и могућностима – образовање, култура, место у демократским институцијама – да изразимо, очувамо и развијемо свој идентитет у корисност наше заједнице, али никако не на штету других са којима овде на Космету живимо.

Уверени смо да овај Споразум отвара нову климу толеранције уместо поштиности и сукоба који ће преодати утицати да наше различитости не буду узрок подела и сукоба већ модел за разумевање, узаванења и заједнички живот.

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Овај Споразум брфини решењима и својом својом суштином и институцијама које успоставља омогућава нам оно што ми желимо – да своје интересе и потребе консултујемо и остварујемо иначе против других и на штету Устава и територијалног интегритета наше државе и Србије и Југославије.

Рефин Савадковић је у име националне заједнице муслиманске рекао да овај данашњи саставак и наставак суштински и отворених разговора недовољно потпуно приступ заједно са муслиманима се овог подјучаје закључу од почетка: сви проблеми на Космету могу се решавати једино по-

Национална заједница Турака оцењује да споразум одговара свим грађанима на овим просторима

Једнако је основни принцип овог документа на којег проналаже сви остели принципи, што гарантује успех, нагласили су представници националне заједнице Турака Губавић Радивој, Шабовић, Садик Талић, Зернавадин Куреји. Они су позитивно оценили овај предлог и изразили задовољство што су и њихови, предлози објавили разикотени и унашени.

– Заједнички предлог споразума о политичком оквиру самоуправе на Космету, чији је темељ споразум председника Милошевића и господина Холбрука, потврђује да наша земља, у овом историјски благословном тренутку, жели да трајно и праведно стабилизује косметске прилике. Зато остваривање мирног живота свих грађана и пуној равноправности, и остваривање највишег степена националних и политичких права за све људе да његов основни циљ.

Поређења ради миром и овом приликом да кажемо да Предлог споразума господина Хилса, у форми у којој је презентован, и о којем смо се изјављивали на претходним разговорима, није прихватљив за већину националних заједница које живе на Косову и Метохији.

Равноправност свих оних који живе на овим просторима мора да буде основни принцип, приступ и начин у решавању права националних заједница. Она, равноправност, или постоји као таква, прикључујући једнаке могућности свим људима да на не исти начин и у истој мери буду доступне сва људска, грађанска и национална права, или је једноставно нема. Равноправност не може бити детерминисана бројношћу једне националне заједнице на једном делу суверене државе. Не може једна национална заједница да буде „равноправна“ у односу на другу. А то је, очигледно, и интенција и намера изражена у споразуму коју је понудио господин Хилс. Као одјек тога често се чују и подсмехљива тонови неких лидера албанских партија о нашој жељи да учествујемо у овим разговорима и нашој намери да у својој судбини одлучимо сами. Јасно је да су Албанци изасолилавае фактор у трајном решењу прилика на Косову и Метохији, зато су уосталом и позивали, али никако и једини. Аутономија, коју наш Устав и познаје и признаје, не предвиђа а ни-

ти то аспору у међународној пракси, аутономија само за једну националну заједницу. Ово је мултипле национална, мултиконфесионална, мултиетничка средина и аутономија мора да пружи правне могућности за редовно остваривање свих националних права и наговане културног идентитета сваке националне заједнице.

С друге стране, предложена решења и заједничком споразуму о којем данас разговарамо и који је понуђен јавности полазе од чинишћу да је реч о недовољном делу Републике Србије и да је остваривање међусобног поверења свих националних заједница на овим просторима врло могуће. Неприкосновено је право сва државе на поштин решења да самоуправу на делу своје територије. Предлог који је пред нама узаванења интереса свих националних заједница и упула се у правни оквир државе. Њоме се потврђује одређавање засновано на Уставу и израженом ставу свих релевантних политичких партија у земљи да Космет не може да изађе из Србије нити Србија може и има право да се одреде дела своје територије.

Овај предлог Споразума, осовим је сигурно, одговара и албанској националној заједници као и свим грађанима који свој живот и свој просперитет желе да воде у овој земљи и на овим просторима.

Међународни фактори, очигче изи-мево остало, и у ОБЕС-у и у НАТО-у, сами су саопштили да се мора поштовати територијални интегритет и суверенитет Југославије и да се подршка заједничкој и њиховим границама. Зато они на смислу, чак ни својим прихућивањем, а да не говорим о потпуној интерпретацији оног што се дешава на Космету, да пошлушују сукобе, већ морају јавно и недвосмислено да се одреде према тероризму и изврше притисак на све оне који морају да прихватају разговоре и дијалог на једини начин за решавање проблема. Они који мисле да се ово проблем могу решавати оружјем неодогајуће су прео преме сопственом народу.

Стога, поновно истичем, овај документ представља одличну основу за политичко решење кризе уз узаванења територијалног суверенитета, интегритета земље и међународног признатих граница Југославије за добро свих.

Искрено нам је жеља да се садаш-

УЧЕ У ПРИШТИНИ, ПРЕДСТАВНИЦИ НАЦИОНАЛНИХ ЗАЈЕДНИЦА И ПОЛИТИЧКИХ ПАРТИЈА, У ПРИСУСТВУ ПРЕДСЕДНИКА РЕПУБЛИКЕ СРБИЈЕ, ПОТПИСАЛИ ДЕКЛАРАЦИЈУ ПОВОДОМ ЗАЈЕДНИЧКОГ ПРЕДЛОГА СПОРАЗУМА О ПОЛИТИЧКИМ ОКВИРИМА САМОУПРАВЕ НА КОСОВУ И МЕТОХИЈИ

ДОКУМЕНТИ Декларација

ње удаљена позиција и међунационална напетост превлађују у духу толеранције, дијалога и међусобног уважавања, а за то нам овај споразум пружа путу гаранцију.

Народни посланици, Заменик Старијег и чланови парламентарних странака са Косова и Метохије нагласили да заједнички предлог Споразума о политичким оквирима самоуправе на Космету представља документ чијом реализацијом се гарантује равноправност и јединица свих националних заједница које живе на овим просторима. Њиме се искључује сваки вид мајоризације и доминације од стране једне заједнице – истакao је Старић.

Битан предуслов за стабилност стања на Косову и Метохији је суштинско територијско деловање. За разговор и проналажење заједничког решења то би било од великог значаја, као што је и од значаја да се свака национална заједница оследи себастајинистичким аспирацијама, да призна своју припадност Србији и Југославији као и да се јасно изјасни и гарантује да своја права неће користити на штету других националних заједница.

Српски народ на Косову и Метохији не може дозволити повратак на решења која би га ставила у подређени положај, која би од њега стварала грађане другог реда. Роме који су Косово и Метохију претворили у финансијску јединицу са свим атрибутима државе су правно, политички, историјски, духовно и културно бесмислени и неопходни.

Република Србија и Савезна Република Југославија не могу дозволити стварање друге, односно треће државе на својој територији, као што, уосталом, то ниједна држава на свету не би дозволила.

То су познате тачке представника свих Срба на Косову и Метохији и оне које не може бити подебљане.

Оно о чему се може разговарати је споразум који је остваривање демократских права, како појединачно, тако и читавих националних заједница, и коришћење додатних права којима би се афирмисали језик и писмо националних заједница, њихова информативна делатност, школство, култура и вера, контакти са матичном земљом (уколико има таквих случајева), заштита националних обичаја и других права којима се афирмише једна национална заједница, јавно, уколико та права не угрожавају права других националних заједница. Предлог Споразума о политичким оквирима самоуправе на Косову и Метохији то недвосмислено нуди.

Може ли се изван оквира толеранције, равноправности и једнакости тражити решење да се одвоје Србија од Косова и Метохије? Наравно да не може. Управо такав приступ толеранције, равноправности и једнакости и такав принцип нуди Споразум. Мирно решење проблема на Косову и Метохији и политички приступ коначноју сва насиља метода, а једини су прихватљив начин за постизање трајног и праведног мира.

Како стоји у Споразуму а то је и познатица наших представника будућност Косова и Метохије је у миру, равноправности, интеграцији, економском просперитету и слободном и заједничком животу, а не у етничким, верским, културним или било каквим другим поделама и изолацији.

Овакав став и познатица у изналажењу мирног решења требало би да буду карактеристика наступа представника свих националних заједница Републике Србије и Савезне Републике Југославије гарантују свима пуна грађанска права, људска и права националних заједница по највишим стандардима демократских држава. Уосталом, такав однос био је присутан и до сада, и нема разлога да тако не буде и убудуће.

Моћним, држава Србија и Савезна Република Југославија не могу допустити да једна национална заједница користи права којима ће се угрожавати право других националних заједница. Ми морамо стајати изнад у виду да је на територији Србије скоро једна третина становништва састављена од

Представници националних заједница и политичких партија – Народне партије Косова, Косовске демократске иницијативе, Националне заједнице Турака, Националне заједнице Горанаца, Националне заједнице Муслимана, Националне заједнице Рема и Националне заједнице Елипаца, заједно са представницима парламентарних партија са Косова и Метохије, са представницима партија у Народној скупштини Србије и Државном делегацијом на савезу у Приштини 25. новембра 1998. године, поводом заједничког предлога Споразума о политичким оквирима самоуправе на Косову и Метохији, усталим су следеће:

ДЕКЛАРАЦИЈА

1. Потписници Декларације оцењују да заједнички предлог Споразума о политичким оквирима самоуправе на Косову и Метохији представља праведно и демократско политичко решење проблема на Космету и нотирају да ће његово усвајање и реализацију имати суштински значај за мир, стабилност и развој ове Покрајине.

2. Потписници Декларације оцењују да заједнички споразум о политичким оквирима самоуправе на Косову и Метохији, до краја афирмише приу равноправност свих националних заједница, као и да сва права решења са Косова и Метохије, треба да буду у складу са правима системима Републике Србије и СР Југославије, као и са међународним стандардима и основним документима

припадника других националности. Свако настојање да се користе доминантна права на штету других изаваља до би и друге јавне реакције, што би, савршеним, достабилноста Србију и Југославију, а што се не сме ни по коју цену дозволити.

Зато се мора истрајати на принципи поштовања равноправности који су познати основа предлога Споразума о политичким оквирима самоуправе на Косову и Метохији. За разлику од овог споразума њихов план и многи други планови и предлози који су ових дана појављивали у штампи, осим конфузије не нуде реална решења и не представљају реалну слику односа на Косову и Метохији.

Ци заједнички предлог Споразума нуди:

Он нуди равноправност и заједничност, а не доминацију и дискриминацију.

Он нуди остваривање права грађана кроз све институције, почев од скупштинских, извршних и судских, до локалних.

Он инсистира на коришћењу додатних права, којима би се афирмисали језик и писмо националних заједница, њихова информативна делатност, школство, култура и вера, контакти са матичном земљом (уколико тајим постоје), заштита националних обичаја и других права којима се афирмише једна национална заједница.

Он предвиђа органе кроз које та права, као и права учешћа у власти, могу бити остварена. Скупштина, Извршно веће и судски управе биће формиране на демократским начелима. Заступљеност припадника свих националних заједница у овим органима онемогућила би превласт једне националне заједнице над другом.

Споразумом се предвиђа и омбудсман који прати остваривање права припадника националних заједница.

Он предвиђа и допушта средства за обављање надлежности органа на Косову и Метохији.

Гарант остваривања грађанских и националних права су Република Србија и Савезна Република Југославија.

Зато са, с правом, питамо: која то права нису укључена у овај предлог Споразума, а која би требало да буду предмет дијалога? Којим се ставом или параграфом у овом предлогу Споразума неће

Заједнички је оцењено да је широка самоуправа, заснована на равноправности националних заједница главни основ за политичко решење и услов за превладавање напетости и сукоба.

3. Потписници Декларације посебно указују да предлози Споразума дефинише принципе, ствара институције, претпоставља широку демократску самоуправу националних заједница на Космету, утврђује права и обавезе и њихово финансијско остваривање и заштиту у оквиру владавине права – у интересу сваке националне заједнице и свих грађана на Косову и Метохији.

Они истичу да предлози Споразума отвара нову климу толеранције, дијалога, поверења и новота и рада у миру, слободи и равноправности. 4. Потписници Декларације одлучују да формирају јединствену Комисију за организацију правих правних аката и предузимање неопходних радних и поступака у процесу остваривања заједничког предлога Споразума.

Заједничкој комисији ће чинити чланови државне делегације, представници националних заједница и представници политичких партија на Косову и Метохији.

5. Потписници овог декларације позивају сва остала политичка партија са Косова и Метохије да се придруже Споразуму, односно да Споразум остваре отвореним за приступ за све друге партије, као и позива да делују свој допринос (припадања, састављања и на други начин) његовој реализацији.

Правом крми, има ли неке реченице у њему којим се право неке од националних заједница угрожава?

Предмет разговора може би да буде и питање: која права и обавезе припад

ради и реализацији у интересу свих људи који на Космету живе, у интересу мира, развоја и просперитета. 6. Ова декларација је потписана на српском језику и језицима припадника националних заједница (албанском, турском) на Косову и Метохији.

Декларацију су у Приштини потписали: Ратко Марковић, Феликс Јаширић, Мухамед Ибраћ, Ибраћ Бајра, Ферис Абаз, Рефик Исмаиљовић, Кока Љула, Салки Такић, Зејнлабадић Куреџа, Раденко Круљ и Владимир Кутељешкић.

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ционалне заједнице која је овде најбројнија. Мајоризација је овде најтежије историјско искуство многих од нас. Афирмација принципа равноправности а против мајоризације велика је вредност овог предлога Споразума. Сви су заштитници у изражавању својих легитимних закона и уставних и међународних стандардима заснованих интереса и потреба а нико није оштећен и нико нема привилегију. Слушајте нас од албанских и о ослободити да сви будемо оно што јесмо а не да скривамо и тржимо.

Зато ми припадници Ромске националне заједнице онемогућавамо да предлози Споразум представља заједнички демократски пут за успешно решавање проблема на Косову и Метохији.

Свим споразумом и предлозима решењима нико није оштећен, сви су заштитници и сви смо одговорни за заједнички живот у миру и равноправности. Овај споразум и његова реализација онемогућава да људи буду слободни, да национални идентитет не скривају већ да изражавају јер овај предлог онемогућава да се овде дешавају спроводена насиљна албанска и босанска мајоризација и зато има нашу подршку свих људи и зато има нашу подршку.

Зато истичемо да Споразум пружа слободу и равноправност свима у остваривању и изражавању националних особености.

Бајрам Халили је оцењено да присуство одређених проблема на Космету није последица заједничких права, већ резултат њиховог искоришћавања од стране припадника албанске националне заједнице.

Та већина је заводена лажним обавешавањем својих сепаратистичких вођа да ће међународна заједница признати њихову сепарацију Космета, па су албанци који су веровали у те изјаве склоно у свему изражавајући увек нарављавајући једног према Србији и СР Југославији, чиме су себе додали у изолацију, и себи ускрели загарантована права која им припадају Уставом Србије и СРЈ.

С тим у вези треба јасно рећи да се о свим проблемима на Косову и Ме-



Тренутак потписивања Декларације

ника једне националне заједнице нису била остваривања у постојећим органима и институцијама система.

У интересу свих националних заједница је утврђивање бројности, састава и структуре становништва. То је не само цивилизацијски захтев, већ је на Косову и Метохији то питање неопходности. Потписници би се премишљали минимално од стране неких представника националних заједница а апсолутној супериорности, о неопостојању читавих националних заједница и различно. Они који су друге били брисани се списа етничких група појавили би се као значајан чинилац политичког и јавног живота на Косову и Метохији.

Српски и црногорски народ је одувек био опредељен за мир, он је то вековима потврђивао, као што и данас потврђује, као што и овом приликом инсистира на мирном решењу – закључило је Заменик Старић.

Ромска национална заједница онемогућава позитивну оценоу предлози Споразума, као резултат отворених и суштинских разговора које смо у протекла два дана интензивно водили – рекао је Кока Љула.

Посебно нас радује да су многе ишце и предлози веома озбиљно били разматрани а неки и конкретно послу-

потпуности. (Ми који представљамо 150 хиљада Рома на Косову овај споразум оцењујемо веома позитивно и прегрдују за даље решавање проблема на Косову и Метохији са којима смо суочени).

Као прво што желимо да истакнемо као његову изузетно велику вредност је принцип који он афирмише а то је да се сви ми, нама, овде, Роми, Тураци, Муслиманима, Албанцима, Србима и Црногорцима, гарантује пуна грађанска равноправност и пуна равноправност националних заједница. То је по нашој оцени кључни принцип и суштински вредност овог документа јер проблем на Косову и Метохији се могу успешно праведно и трајно решити само ако се поклази од тог принципа и ако се овако ва тај принцип што је Предлогом овог споразума и учињено и зато је он прихватљив и зато добија подршку.

За нас Рома је посебно важно да су све предлози решени у овом споразуму у складу са правним системом Србије и Југославије које су нама стабилни.

Споразум обезбеђује одговарајуће институције представницима и извршима обезбеђује њихово демократско конституисање на изборима, вишестраности и из народне воље. Предлози решења су реална и остварива. Наш став је да их треба што пре претворити у операционализована која би се што пре могла и остварити.

Ми смо уверени да ће сам почетак њихове реализације и припрема за њихову реализацију већ значајно мигоу свим позитивним елементима.

Посебан значај овог предлога је што гарантује равноправност а онемогућава мајоризацију. То ће људе и народне представнике упућивати да се уважавају поред својих и интереса других људи са којима се заједно живе и да су њихове потребе и основни интереси издигнути. Важно је што постоје механизми заштите што би се у случају да се не нађу решења у Покрајини о томе одлучивало у Републичком парламенту где ћемо и бити заступљени и моћи да износимо, обрађујемо и учествујемо на одлукама је реч о нашим интересима и потребама.

Важно је да се отклана страх од мајоризације једних над другима, а посебно мајоризације од стране албанске не-

тозији може разговарати, али се тај дијалог може водити само између Срба и Албанца, као и осталих националних заједница, држављана Србије и СРЈ. То је једини могући пут за трајно решење стања на Космету, као непосредном делу Србије и СР Југославије, и да мирни живот ових његових грађана – рекао је Халили.

Њежићени Алдија Краснић, који је говорио такође у име ромске националне заједнице, осврнуо се на план Кристофора Хила, наглашавајући да се на тај начин непуна сва остала албанска заједница, чиме су себе додали у изолацију, а афирмисање изолације једна – албанска.

С друге стране, Споразум представља Милошевићу и господина Хољбурка пружа честите гаранције да ће Роми и убудуће уживати потпуну афирмацију у свим сегментима живота, укључујући образовање, културу и друштвено-политички живот.

Ова прва била су и до сада загарантована припадницима ромске националне заједнице и Уставом Републике Србије и Савезним Уставом. Према ранијим, морам да истакнем да Роми у овој земљи имају право на културни настанак на ромском језику. Уверен сам да се тиме не може похвалити много земаља на свету.

Влада Републике Србије и даље улаже на

Full Translation

Publication: **Politika**

Date: **Thursday, 26 November 1998**

Headline: **Documents: Declaration**

Author/

Agency: not known

Page: 15

Subject: Representatives of ethnic communities and political parties sign a Declaration on a Joint Draft Agreement on the Political Framework for Self-Government in Kosovo and Metohija

At a meeting in Priština of 25 November 1998, the representatives of the following ethnic communities and political parties – the People's Party of Kosovo, the Kosovo Democratic Initiative, the Ethnic Community of Turks, the Ethnic Community of *Goranci*, the Ethnic Community of Muslims, the Ethnic Community of Roma and the Ethnic Community of Egyptians – and the representatives of parliamentary political parties from Kosovo and Metohija, the representatives of political parties in the National Assembly of Serbia and the state delegation, adopted the following Declaration concerning the Joint Draft Agreement on the Political Framework for Local Self-Government in Kosovo and Metohija:

DECLARATION

1. The signatories to the Declaration deem that the Joint Draft Agreement on the Political Framework for Local Self-Government in Kosovo and Metohija constitutes a fair and democratic political solution to the problems in Kosovo and Metohija and that its adoption and implementation will be essential for the peace, stability and development of the Province.

2. The signatories to the Declaration deem that the Joint Agreement on the Political Framework for Local Self-Government in Kosovo and Metohija fully affirms the complete equality of all ethnic communities and that all legal solutions for the establishment of local self-government in Kosovo and Metohija must be fully consistent with the legal systems of the Republic of Serbia and the FRY /Federal Republic of Yugoslavia/, international standards and the basic documents.

It is the common consensus that wide-ranging local self-government, based on the equality of ethnic communities, is the linchpin for a political solution and a prerequisite for overcoming tensions and conflicts.

3. The signatories to the Declaration especially point out that the Draft Agreement defines principles and creates institutional requirements for broad democratic local self-government of the ethnic communities of Kosovo and Metohija and establishes rights and obligations and their effective exercise and protection within the rule of law – in the interests of every ethnic community and all the citizens of Kosovo and Metohija.

They point out that the Draft Agreement opens up a new climate of tolerance, dialogue, trust and life and work in peace, freedom and equality.

4. The signatories to the Declaration have decided to establish a joint commission to organize and draft legal documents and undertake steps and procedures necessary in the process of implementing the Joint Draft Agreement.

The joint commission shall consist of members of the state delegation, representatives of the ethnic communities and representatives of political parties in Kosovo and Metohija.

5. The signatories to the Declaration call on all other political parties in Kosovo and Metohija to align themselves with the Agreement, to consider it open for access by all other parties and to contribute (with remarks, suggestions and in other ways) to its elaboration and implementation in the interest of all people living in Kosovo and Metohija, and in the interests of peace, development and prosperity.

6. This Declaration has been signed in the Serbian language and in the languages of members of the ethnic communities (Albanian and Turkish) of Kosovo and Metohija.

For the Republic of Serbia:
/a signature/

For the ethnic communities and political
parties of Kosovo and Metohija:

Kosovo Democratic Initiative
/a signature/

People's Party of Kosovo
/a signature/

Ethnic Community of *Goranci*
/a signature/

Ethnic Community of Egyptians
Ćerim ABAZI – /a signature/

Ethnic Community of Muslims
/a signature/

Ethnic Community of Roma
/a signature/

Ethnic Community of Turks
/a signature/ /illegible handwritten text/

Parliamentary political parties from
Kosovo and Metohija
/a signature/

For the FR Yugoslavia
/a signature/

The following signed the Declaration in Priština yesterday:
Ratko MARKOVIĆ, Fajik JAŠARI /Faik JASHARI/, Muharem IBRAI, Ibro VAJT,
Ćerim /Cerim/ ABAZI, Refik SENADOVIĆ, Koka LJUAN, Sadik TANJOL,
Zejnêlâbedin KURJEŠ /KURJES/, Radenko KRULJ and Vladan KUTLEŠIĆ.

ANNEX 7**1D45, Press Release, Republic of Serbia, Office of the President, 5 November 1998**

/Handwritten: 2243/4/

REPUBLIC OF SERBIA
Office of the President
5 November 1998

PRESS RELEASE

The President of the Republic of Serbia, Milan MILUTINOVIĆ, spoke in Priština today with municipal presidents, republican and federal deputies and district chiefs from Kosovo and Metohija. The President was briefed on the security, political and socio-economic situation in the Province by Zoran ANDJELKOVIĆ, president of the Provisional Executive Council of the Autonomous Province of Kosovo and Metohija and Vojislav ŽIVKOVIĆ, national deputy.

The President of the Republic of Serbia, Milan MILUTINOVIĆ, said that the essence of the Agreement with the international community comprised a really firm commitment for solving the problem in Kosovo and Metohija by political means with full respect for the equality of all citizens and all ethnic communities who live on this territory, inside the Republic of Serbia and the Federal Republic of Yugoslavia.

Albanian terrorism has been defeated; the main terrorist strongholds have been broken up. We are therefore no longer in a situation where we treat the problems in Kosovo and Metohija as exclusively questions of security. At the same time it has created a serious basis for devoting ourselves to political, economic, social and cultural questions. This is confirmed by a strengthening of civil structures through the formation of a Provisional Executive Council as well as an acceleration of the normalisation of the overall situation in this, our province, said President MILUTINOVIĆ.

The accelerated normalisation of the situation, the prevalence of reason over threats and blackmail, in addressing the problem in Kosovo and Metohija constitutes an opportunity, once more, for me to urge Serbs, Montenegrins, Albanians, Muslims, Turks, Roma and *Goranci* /Slavic Muslims/ – everyone who lives in this territory – to continue dialogue immediately on a solution to the problem and by joint agreement to put their lives, work and development in order.

For Kosovo and Metohija, and all who live here, the most important thing is to quickly find a democratic, equal and lasting political solution. Courage, resolve, organisation and patience are needed in order to achieve this. A lasting political process will get rid of force as a philosophy, as well as a way for solving this problem, and will strengthen toleration, understanding and trust. That approach is the best way for eliminating all exclusivity, extremism and hatred.

Serbia has confirmed through its state politics and on the diplomatic front that it is firmly committed to a political means of solving the problem in Kosovo and Metohija. It is precisely because we are principled in this stance that I emphasise that

Serbia is fully prepared to defend and protect the peace that has been reached as well as the security of all its citizens. Likewise, nobody should be in any doubt that we have the forces and ability to prevent anybody who tries again to endanger the peace and security of our citizens – said the President of the Republic of Serbia.

Sporadic attempts by the remnants of terrorist bands will not halt the political process. These sporadic attempts should be vigorously thwarted by the security forces. Furthermore, they should be sharply condemned by the international community and by all Albanian political parties. This would be the best proof that they are committed to a peaceful means of solving the problem and also in order to eliminate any thought by the terrorists that they have any stronghold or support.

We view the OSCE mission entirely as a method for verification of what our state is doing to fulfil what was agreed and verify the way in which its being done. The OSCE mission should verify the truth, and eliminate rumours, speculation and organised media incitement and the like. Therefore we need to make sure that all the conditions are in place for the OSCE verification mission.

President MILUTINOVIĆ said: I especially want to highlight the fact that the future of Kosovo and Metohija is not in conflicts, an attempt at apartheid or the self isolation of ethnic communities. Kosovo and Metohija possesses large economic as well as natural resources and they can and should be used swiftly to facilitate a better life for all who live in this, our province. Our aim is to pave the way for the development of Kosovo and Metohija and to stem the spiral of conflict, xenophobia, and chauvinist, religious as well as historical prejudice, in short – everything that divides people and nations.

Terrorism cannot solve anything. The political process implies an immediate continuation of dialogue. I am calling on the representatives of the Albanian political parties to realise that there has to be discussion and that the principle of equality and respect for the national characteristics of others in Kosovo and Metohija can be used to attain peace, the preservation of national identity of all ethnic communities and the creating of economic and cultural development.

Likewise if the international community really wants to help then it should realise that the activation of full rights of the Federal Republic of Yugoslavia in international organisations and institutions would constitute a great contribution to the acceleration of the political process, to the normalisation of conditions in Kosovo and Metohija, to the political approach of addressing the problem and with thus to the stabilisation of the whole region of the Balkans and South-East Europe – said the President of the Republic of Serbia in Priština today.

ANNEX 8

**1D18, page 414, Contact Group Non-Negotiable Principles/Basic Elements, 30
January 1999**

education and culture (subject to the rights of the members of national communities), communications, roads and transport, protection of the environment

Legislative: Assembly

Executive: President of Kosovo, Government, Administrative bodies

Judiciary: Kosovo court system

Clear definition of competencies at communal level

Members of all national communities to be fairly represented at all levels of administration and elected government

Local police representative of ethnic make-up with coordination on Kosovo level

Harmonisation of Serbian and Federal legal frameworks with Kosovo interim agreement

Kosovo consent required inter alia for changes to borders and declaration of martial law

Human Rights

Judicial protection of human rights enshrined in international conventions and rights of members of national communities

Ombudsman selected under international auspices

Role of OSCE and other relevant IOs

Implementation

Dispute resolution mechanism

Establishment of a joint commission to supervise implementation

Participation of OSCE and other international bodies as necessary

11. Contact Group Non-negotiable Principles/Basic Elements, 30 January 1999

General Elements

Necessity of immediate end of violence and respect of cease-fire

Peaceful solution through dialogue

Interim agreement: a mechanism for a final settlement after an interim period of three years

No unilateral change of interim status

Territorial integrity of the FRY and neighbouring countries

Protection of rights of the members of all national communities (preservation of identity, language and education; special protection for their religious institutions)

Free and fair elections in Kosovo (municipal and Kosovo wide) under supervision of the OSCE

Neither party shall prosecute anyone for crimes related to the Kosovo conflict (exceptions: crimes against humanity, war crimes, and other serious violations of international law)

Amnesty and release of political prisoners

International involvement and full co-operation by the parties on implementation

Governance in Kosovo

People of Kosovo to be self-governed by democratically accountable Kosovo institutions

High degree of self-governance realized through own legislative, executive and judiciary bodies (with authority over, inter alia, taxes, financing, police, economic development, judicial system, health care,

ANNEX 9

**1D205, Excerpt from P771, BBC documentary, *The Fall of Milosević*, 20 February
1999 – Contact Group Foreign Ministers**

20 February 1999 – Contact Group Foreign Ministers

Narrator: After two weeks of hard bargaining, the Foreign Ministers arrived for the final session. They summoned each delegation in turn.

Madeleine Albright: The foreign ministers all sat at a long table, as if we were in judgement, or something. And, first, Thaci was brought in, with a couple of other members of the Albanian delegation.

Hashim Thaci: The time had come simply to say Yes or No to the document. It was a really difficult choice.

Madeleine Albright: The question was basically, "do you agree with the framework 'yes' or 'no'". And, we were expecting a "yes", or I was.

Hashim Thaci: The document ruled out independence. A referendum wasn't mentioned. But at the same time, so many had fought and died for this. My response was, "We will sign the document but it must include a referendum."

Robin Cook: He needed further improvements and of course the improvements he wanted were ones that we knew were unnegotiable, they were impossible to get agreement on. And, eventually I had to say to him, look the real – the bottom line here – the real question is "can you say yes to this package".

Veton Surroi: It was a dangerous situation for us particularly because of Dini, the Italian minister, insisted on picking at every word – and did so skilfully.

Lamberto Dini: Like Robin Cook, I said, "We need to be clear. Is it 'yes' or 'no'?"

Hashim Thaci: I knew if we said no to the document we would lose international support. The Kosovo problem would be swept aside, like the Kurds.

Madeleine Albright: He kept, kind of, moving around the issue and when he wouldn't say "yes", I remember taking off my earphones and putting them down on the table, in just pure exasperation.

Lamberto Dini: In particular, she didn't like my insistence on pinning down the Kosovar position.

Madeleine Albright: I thought that the way that the language had been constructed provided what, in diplomacy, we call "some creative ambiguity".

Lamberto Dini: I said: "Sure, a certain ambiguity is needed in the phraseology of agreements. But, we have to decide here whether or not to bomb Serbia. This is a decision of huge importance. We must be absolutely certain the responsibility for the failed agreement is Serbia's and not Kosovo's."

Madeleine Albright: And, Dini got more and more insistent and said "are you willing to give up independence?"

Veton Surroi: Thaci replied, "No, we can't accept it". [Dini] then looked over at Madeleine Albright and said, "You, see, this is what I told you". He didn't say this in

words, but his expression was as if to say: "You see, I told you so".

Hubert Vedrine: Madeleine Albright looked surprised and worried. She asked for the session to be adjourned. So the session was adjourned. Then we all stood around talking.

Lamberto Dini: The American delegation became very nervous because the strategy that the Americans had developed was disintegrating.

Narrator: For the cameras, Mrs. Albright stuck to her usual line.

Madeleine Albright: The Serb delegation bears the lion's share of responsibility for the difficulties we have experienced today.

Narrator: But, in private, with Hashim Thaci, she took a different tack.

Madeleine Albright: I said, "Look, I don't understand what just happened in there. You have let us down. Ah, it is an impossible situation now. How could you do this? We expected you to be a leader".

Hashim Thaci: Mrs. Albright said, "If you sign and the Serbs don't, we will bomb. We will activate. If you don't sign and the Serbs accept, our hands are tied."

Madeleine Albright: You could see that he was just shocked, I mean, he looked like a high school student that I had dressed down.

Hashim Thaci: And the next day, they pressed us harder to accept the document as it was – without the referendum.

Narrator: The Kosovo Albanians were given three more days. They wanted to sign, but they were still under pressure from the gunmen back home. For seventy-two hours, they did not leave the castle or go to bed. As the deadline approached, the delegation was still arguing. Then, the American negotiator went to their room.

Chris Hill: I said, "Guys, we're there now. We've got five minutes now to really decide this thing.

Veton Surroi: Chris Hill arrived in a sweat. His tie was askew. He'd had even less sleep than many of us.

Chris Hill: I said, "so are you going to sign this thing, or are you not?" At that point, Surroi, spoke up.

Veton Surroi: We had been negotiating for two or three weeks. We had had a whole ten years of conflict with Milosevic. And a moment had come, the one moment when we seemed to be on the verge of throwing everything away and we were doing so. For me, they were seconds when we were casting away all our efforts simply because we could not find a very simple expression.

Narrator: Veton Surroi had a brain wave. The document they were being asked to sign said, "In three years an international meeting would consider a final settlement for Kosovo and the will of the people would be taken into account." Surroi suggested they could sign it, if Mrs. Albright accepted a letter stating that the will of the people

would be tested in a referendum.

Veton Surroi: So we actually opened the door for a sort of political referendum. But, at the same time, we told the international community that as far as we were concerned, work on this document was over.

Narrator: Thaci was trying to read the draft on his translator's computer screen.

Dukajin Gorani (translator): And I have Jim O'Brien and Jamie Rubin behind, telling me, hurry up man, hurry up. He can read it later.

James O'Brien: And, Thaci is saying, "maybe you can change that". And, I said, "no, no, you can't change". And, I began to step in front of him and sort of bump him back away from the computer. I want it done.

Dukajin Gorani (translator): And, Thaci becomes tremendously nervous and says "you're not leaving this chair until I get both wordings in both languages.

Hashim Thaci: We had waited for so long and negotiated for so long, one minute more would make no difference.

Dukajin Gorani (translator): O'Brien just takes the sheet of paper, knowing that if the paper remains a few more minutes in Thaci's possession, he would probably change his mind.

James O'Brien: I said, "Jamie, here's a copy – you're going to announce this."

James Rubin: I thought that I'd better first check with the Secretary of State and I snuck into the conference room and whispered in her ear what had happened and she said, "go out and announce it".

Narrator: The letter was addressed to Mrs. Albright, so she was able to accept the referendum compromise, without consulting her colleagues.

James Rubin: Then, I really started to get my blood pumping and I began running through the halls of this crazy castle, and out through the gates, and into the town square, to finally tell the reporters something good. "Very briefly, the Kosovar Albanian delegation have voted in favour of this agreement – pending consultations with the people of Kosovo". The Albanians had chosen peace – and deferred independence – and the Serbs had not. And, now, there was the clarity that the world needed in deciding whose side they should be on.

Narrator: With a referendum in the bag, Thaci won over the commanders back home. The delegation returned to Paris for the signing ceremony. Milosevic stayed home, claiming foul play.

ANNEX 10**1D676, Rambouillet Accords: Co-chairman's Conclusions, 23 February 1999**

RAMBOUILLET ACCORDS: CO-CHAIRMEN'S CONCLUSIONS
(Rambouillet, February 23)

1. Contact Group Ministers met in Rambouillet on 23 February at the end of more than two weeks of intensive efforts to reach an agreement on substantial autonomy for Kosovo, while respecting the national sovereignty and territorial integrity of the Federal Republic of Yugoslavia.
2. Ministers noted the historic nature of the Rambouillet Conference, which launched a process on the basis of the principles and basic elements adopted by the Contact Group in London on 29 January, bringing together those long divided by deep and bitter differences.
3. These have been complex and difficult negotiations, as we expected. The important efforts of the parties and the unstinting commitment of our negotiators Ambassadors Hill, Petritsch and Mayorsky, have led to a consensus on substantial autonomy for Kosovo, including on mechanisms for free and fair elections to democratic institutions, for the governance of Kosovo, for the protection of human rights and the rights of members of national communities ; and for the establishment of a fair judicial system.
4. A political framework is now in place, as set out in the Rambouillet Accords, and the groundwork has thereby been laid for finalising the implementation Chapters of the Agreement, including the modalities of the invited international civilian and military presence in Kosovo. It is essential that the agreement on the interim accord be completed and signed as a whole. In this spirit, the parties committed themselves to attend a conference, covering all aspects of implementation, in France on 15 March, following consultations with the parties and relevant international organisations. We are determined to monitor closely that this commitment is fully respected, in order to complete the Rambouillet process.
5. The parties must abstain from any action which would undermine the achievements of Rambouillet. In particular, we expect the parties to honour fully and immediately the cease-fire which should be in place throughout Kosovo, to abstain from all provocative actions and to abide fully by their commitments of October 1998 and to comply with the relevant Security Council Resolutions. We fully support the mission and personnel of the OSCE's Kosovo Verification Mission, and we insist that the parties provide for the security of KVM and other international personnel, for which they will be held responsible.
6. We pledge ourselves to work together to achieve a settlement meeting the legitimate aspirations of all the people of Kosovo. Only such a settlement can create the conditions in which a humanitarian catastrophe can be avoided. Those who prevent the completion of the interim agreement for Kosovo, or who provoke further hostilities or who threaten the security of KVM, will be held fully accountable for their actions.

ANNEX 11

1D99, Letter to Madeleine Albright from President Milutinović and Prof. Dr. Ratko Marković, 5 March 1999

1D591, Letter to Igor Ivanov from President Milutinović and Prof. Dr. Ratko Marković, 5 March 1999

1D592, Letter to Robin Cook from President Milutinović and Prof. Dr. Ratko Marković, 5 March 1999

1D593, Letter to Lamberto Dini from President Milutinović and Prof. Dr. Ratko Marković, 5 March 1999

1D594, Letter to Joseph Fischer from President Milutinović and Prof. Dr. Ratko Marković, 5 March 1999

1D591, Letter to Hubert Védrine from President Milutinović and Prof. Dr. Ratko Marković, 5 March 1999

Belgrade, 5 March 1999

Dear Mme. Secretary,

You are well aware that on 23 February 1999, the talks in Rambouillet (France) have been temporarily discontinued and that it was concluded that they be continued on 15 March, with a view to continuing the work towards finding a political solution in Kosovo and Metohija. You are also aware of the fact that the text of the "Agreement" has not been adopted and is far from being ready for signature.

In my talks with Ambassador Christopher Hill on 2 March, I clearly drew his attention to all of the above.

Unfortunately, our warnings were not heeded. Exactly the opposite is taking place. Unprecedented campaign has been set in motion to have the representatives of political parties of Albanian separatist movement, even before 15 March and the continuation of the agreed talks, sign the text of the non-existent "Agreement" of 23 February (at 9.30 a.m.). In the accompanying letter to the Agreement, it is unambiguously stated (confirmed by Ambassador B. Maiorsky's signature) that "Russia does not associate itself with Chapters 2 and 7". Our delegation in a written form refused to accept the same (56 new pages of the "Agreement") because it was not discussed either in the Contact Group or in Rambouillet.

Moreover, our positions on that issue, along with the representatives of the Contact Group, we clearly defined in our letter (of 23 February at 3.00 p.m.), saying that "all elements of self-government at the time of defining of the Agreement have to be known and clearly defined. In further work, this should be adequately addressed and consistently resolved. In that sense, we are ready to participate in the next meeting on the issue." The Contact Group accepted our letter and has taken it into account in drafting the Co-Chairmen conclusions.

Her Excellency
Mme Madeleine K. ALBRIGHT
Secretary of State
of the United States of America
Washington, D.C.

1D05-0185

In view of the above, the present campaign to sign the non-existent "document" surprises us and causes indignation because it is obviously that they are seeking to impose the policy of fait accompli, which may seriously undermine further continuation of the negotiating process.

We hope that the members of the Contact Group will not allow that and we therefore rightfully expect the international community, particularly the members of the Contact Group, to create appropriate conditions for the continuation of the talks. In that belief, we expect further talks, free from any impartiality, pressures, threats, prejudging and such acts. The Republic of Serbia and the FR of Yugoslavia are ready to make their sincere and constructive contribution to that.

Please accept, Mme. Secretary, the assurances of our highest consideration.

Milan Milutinović
President of the Republic of Serbia

Prof. Dr Ratko Marković
Vice-President of the Government
of the Republic of Serbia
Head of the Delegation
of the Government of the Republic of Serbia
at the Meeting in Rambouillet

Belgrade, 5 March 1999

Dear Mr. Minister,

You are well aware that on 23 February 1999, the talks in Rambouillet (France) have been temporarily discontinued and that it was concluded that they be continued on 15 March, with a view to continuing the work towards finding a political solution in Kosovo and Metohija. You are also aware of the fact that the text of the "Agreement" has not been adopted and is far from being ready for signature.

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His Excellency
Mr. Igor IVANOV
Minister for Foreign Affairs
of the Russian Federation
M o s c o w

1D07-0652

In view of the above, the present campaign to sign the non-existent "document" surprises us and causes indignation because it is obviously that they are seeking to impose the policy of fait accompli, which may seriously undermine further continuation of the negotiating process.

We hope that the members of the Contact Group will not allow that and we therefore rightfully expect the international community, particularly the members of the Contact Group, to create appropriate conditions for the continuation of the talks. In that belief, we expect further talks, free from any impartiality, pressures, threats, prejudging and such acts. The Republic of Serbia and the FR of Yugoslavia are ready to make their sincere and constructive contribution to that.

Please accept, Mr. Minister, the assurances of our highest consideration.

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President of the Republic of Serbia

Prof. Dr Ratko Marković
Vice-President of the Government
of the Republic of Serbia
Head of the Delegation
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at the Meeting in Rambouillet

Belgrade, 5 March 1999

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The Right Honourable
Mr. Robin COOK
Secretary of State for Foreign and
Commonwealth Affairs of the United Kingdom
of Great Britain and Northern Ireland
L o n d o n

1D07-0656

In view of the above, the present campaign to sign the non-existent "document" surprises us and causes indignation because it is obvious that they are seeking to impose the policy of fait accompli, which may seriously undermine further continuation of the negotiating process.

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President of the Republic of Serbia

Prof. Dr Ratko Marković
Vice-President of the Government
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Head of the Delegation
of the Government of the Republic of Serbia
at the Meeting in Rambouillet

Belgrade, 5 March 1999

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His Excellency
Mr. Lamberto DINI
Minister for Foreign Affairs
of the Italian Republic
R o m e

1D07-0660

In view of the above, the present campaign to sign the non-existent "document" surprises us and causes indignation because it is obvious that they are seeking to impose the policy of fait accompli, which may seriously undermine further continuation of the negotiating process.

We hope that the members of the Contact Group will not allow that and we therefore rightfully expect the international community, particularly the members of the Contact Group, to create appropriate conditions for the continuation of the talks. In that belief, we expect further talks, free from any impartiality, pressures, threats, prejudging and such acts. The Republic of Serbia and the FR of Yugoslavia are ready to make their sincere and constructive contribution to that.

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President of the Republic of Serbia

Prof. Dr Ratko Marković
Vice-President of the Government
of the Republic of Serbia
Head of the Delegation
of the Government of the Republic of Serbia
at the Meeting in Rambouillet

Belgrade, 5 March 1999

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His Excellency
Mr. Joseph FISCHER
Federal Minister for Foreign Affairs
and Vice-Chancellor of the
Federal Republic of Germany
B o n n

1D07-0664

In view of the above, the present campaign to sign the non-existent "document" surprises us and causes indignation because it is obvious that they are seeking to impose the policy of fait accompli, which may seriously undermine further continuation of the negotiating process.

We hope that the members of the Contact Group will not allow that and we therefore rightfully expect the international community, particularly the members of the Contact Group, to create appropriate conditions for the continuation of the talks. In that belief, we expect further talks, free from any impartiality, pressures, threats, prejudging and such acts. The Republic of Serbia and the FR of Yugoslavia are ready to make their sincere and constructive contribution to that.

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Milan Milutinović
President of the Republic of Serbia

Prof. Dr Ratko Marković
Vice-President of the Government
of the Republic of Serbia
Head of the Delegation
of the Government of the Republic of Serbia
at the Meeting in Rambouillet

Belgrade, 5 March 1999

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His Excellency
Mr. Hubert VEDRINE
Minister for Foreign Affairs
of the Republic of France
P a r i s

1D07-0668

In view of the above, the present campaign to sign the non-existent "document" surprises us and causes indignation because it is obvious that they are seeking to impose the policy of fait accompli, which may seriously undermine further continuation of the negotiating process.

We hope that the members of the Contact Group will not allow that and we therefore rightfully expect the international community, particularly the members of the Contact Group, to create appropriate conditions for the continuation of the talks. In that belief, we expect further talks, free from any impartiality, pressures, threats, prejudging and such acts. The Republic of Serbia and the FR of Yugoslavia are ready to make their sincere and constructive contribution to that.

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Milan Milutinović
President of the Republic of Serbia

Prof. Dr Ratko Marković
Vice-President of the Government
of the Republic of Serbia
Head of the Delegation
of the Government of the Republic of Serbia
at the Meeting in Rambouillet

ANNEX 12

1D33, Conclusions of the National Assembly of the Republic of Serbia, 23 March 1999

(See, also, 1D32, Shorthand Minutes, First Session of the First Regular Sitting of the National Assembly of the Republic of Serbia, Belgrade, 23 March 1999, pages 56-58)

The National Assembly of the Republic of Serbia, at its session held on 23 March 1999, considered the Report of the State delegation on the Rambouillet and Paris talks and adopted the following

CONCLUSIONS

I

1. The National Assembly of the Republic of Serbia condemns in the strongest terms the threats of aggression against our country and the people as well as the build-up of NATO troops on our borders. The preparations for war and threats of aggression against our country undermine the political process for the settlement of problems in Kosovo and Metohija; make impossible the reaching of a political agreement; and represent direct support and assistance to separatists and terrorists.
2. Threats by NATO are an outright violation of the United Nations Charter and threaten the sovereignty and territorial integrity of our country. NATO tramples underfoot the fundamental principles of international relations, the very foundations of the international order and it constitutes a threat to international peace and security. We therefore request the Security Council to prevent violation of the UN Charter, to place immediately on its agenda the request of the Government of the Federal Republic of Yugoslavia and condemn NATO actions. We request the Organization for Security and Cooperation in Europe (OSCE) and the United Nations not to turn a blind eye to the threat of aggression and to hide by remaining silent, because in that way they will become accessory to the destruction of the generally accepted principles in international relations and to attacks on a sovereign country and a founding Member State of the United Nations. Also, we condemn the departure of the OSCE Kosovo Verification Mission. There were no reasons for this action except to put the demonstration of departure in the function of blackmail and pressures on our country.
3. We are warning NATO and all the States from the territory of which aggression against our country will be attempted that we are going to defend our territory, people and our freedom by all available means.
4. We request that the Parliaments and Governments of all Member States of the United Nations, of the OSCE and the Contact Group support the resumption of the political process and condemn threats of force and advocacy of aggression against our country.

II

1. The National Assembly of the Republic of Serbia approves the Report of the delegation designated by the Government of the Republic of Serbia to attend the talks at Rambouillet and in Paris and assesses that the delegation, by its principled and constructive stance, has done everything possible to reach a political agreement on the peaceful settlement of problems in Kosovo and Metohija.
2. The State delegation has acted in accordance with the platform formulated by the National Assembly in its Conclusions of 4 February 1999, regarding the reaching of a political agreement on a wide autonomy for Kosovo and Metohija, while ensuring full equality of all citizens and national communities, as well as the respect of the sovereignty and territorial integrity of the Republic of Serbia and the Federal Republic of Yugoslavia.

III

1. We have accepted the negotiations in France, proceeding from the firm commitment of the people and of all political factors in the country to do everything possible and contribute to resolution of problems in Kosovo and Metohija peacefully and by political means, in good faith that the same is also desired by the international community and by the Contact Group which helped organize the talks.
2. In France, instead of direct negotiations and genuine efforts to reach a political agreement on substantial and large autonomy, instead of peace and political settlement, on offer were diktat, forgery, threats, blackmail and NATO troops.
3. The National Assembly points out with regret that the international mediators as well as the Co-Chairmen of the Rambouillet and Paris talks have not succeeded in bringing the delegation of the separatist movement to sit at the same table with the State delegation of Serbia. Therefore, there were no negotiations between the two delegations.

IV

1. The National Assembly of the Republic of Serbia notes that no political agreement was reached between the two delegations either at Ramouillet or in Paris.

2. The blame for failure of the talks in Ramouillet and Paris cannot be attributed to the Serbian State delegation, who insisted all the time on direct negotiations and on agreement. Consequently, all the blame for it solely rests with the delegation of the separatist and terrorist movement and with those who have permitted them to behave like this and to put their signatures on the text which they did not for a single moment want to discuss with the Serbian State delegation and which they eventually declared as a full agreement.
3. Agreement was not reached because the Albanian separatist/terrorist delegation avoided face-to face talks considering that they had not given up their separatist goals; their intentions to achieve, through autonomy, "a State within a State"; to have Serbia occupied through the implementation of the political agreement; to create an ethnically pure Kosovo and Metohija through human rights and democracy; and finally, with the assistance of their sponsors, to secede Kosmet from Serbia through an international protectorate and a referendum.
4. Additionally, agreement was not reached because the Contact Group insisted on proposals cancelling out the sovereignty and territorial integrity of the Republic of Serbia and those of the Federal Republic of Yugoslavia. The Contact Group has thus abandoned its fundamental principles established on 29 January 1999; by not defining rules of procedure and the decision-making process it created confusion during the proceedings and provided the basis for fraud and falsification of documents which had never been discussed or endorsed by the Contact Group as a whole; by encouraging pressures and threats of aggression against our country it incited separatists and terrorists, contributing to the creation of a negative atmosphere for a political agreement on peaceful solutions for problems in Kosovo and Metohija.
5. The paper signed by the Albanian separatist/terrorist delegation is not an agreement at all but their demand for a "Kosovo Republic", initialled by the sponsors backing them on this. The fake which was presented as an "agreement" is not a Contact Group document. Even some Contact Group members have dissociated themselves from it. That is a criminal act without a precedent in international legal relations and it provides an alibi for fresh threats and pressures on our country, as forced in Paris and stage-managed by the United States. As a result, the United States has openly - diplomatically, politically and militarily - sided with one party and allied the North Atlantic Alliance with the separatists and terrorists.

V

1. The National Assembly of the Republic of Serbia assesses that the Agreement proposed and signed by our State delegation has made a crucial contribution to the political process of seeking solutions to problems in Kosovo and Metohija by peaceful means. The signatures of the members of our delegation representing all national communities living in Kosovo and Metohija - Serbs, Montenegrins, Muslims, Turks, Roma, Goranies, Egyptians - as well as the Albanian political parties wanting common life in equality confirmed the substantial importance and value of that document.
2. This agreement is fully along the lines of the Contact Group principles; it ensures an extensive autonomy in Kosovo and Metohija within the borders of Serbia and the Federal Republic of Yugoslavia; it guarantees the sovereignty and territorial integrity of the Republic of Serbia and the FR of Yugoslavia, full equality of citizens and all national communities, as well as the immediate establishment of viable democratic institutions and the bodies for making decisions on an equal basis without any one side being overruled by another; it ensures that there is no independent Kosovo and Metohija or a third Republic. That agreement reaffirms the commitment to a peaceful common life and a safe future for all, i.e. a multi-ethnic and multi-religious Kosovo and Metohija.
3. The National Assembly of the Republic of Serbia submits to the Parliaments of all UN Member States the Agreement on self-governance in Kosovo and Metohija to assess the extent and type of the autonomy that the Republic of Serbia guarantees to Albanians, Serbs, Montenegrins, Muslims, Roma, Turks, Goranies and Egyptians living in Kosmet, and calls on them to comment on the democratic dispositions guaranteeing equality of the national communities in this province.
4. The National Assembly of the Republic of Serbia once again clearly states that the Republic of Serbia and the Federal Republic of Yugoslavia are still committed to a peaceful political solution of problems in Kosovo and Metohija. We reiterate the readiness of the State delegation immediately to continue direct discussions with representatives of Albanian political parties and of all other national communities. Serbia is open to a viable political agreement.
5. The National Assembly of the Republic of Serbia authorizes the State delegation to sign a political agreement on self-governance in Kosovo and Metohija to be agreed and signed by all national communities living in Kosovo and Metohija.

A

6. The National Assembly makes it incumbent upon the Government of the Republic of Serbia to proceed immediately to the operationalization of such agreement and to propose normative solutions so that the agreement may be implemented as soon as possible, as a guarantee of the strengthening of new structures in Kosmet, of inter-ethnic confidence-building, in preparation for a census, creation of the conditions for direct, general and secret elections for organs of power and for the overall normalization of the situation in this province.

VI

1. We commend the Parliaments, Governments, numerous political parties, scientific, cultural and educational organizations and institutions as well as many prominent intellectuals, researchers, cultural and public figures and individuals all over the world for offering to our people and our State, at this crucial moment in history, their support and for raising their voice in defence of the principles of equality of peoples and countries in international relations, and for denouncing threats of aggression against our country. All this has helped the truth about Kosovo and Metohija come out.
2. Serbia is united, determined and unflinching in defence of its freedom, independence and territory. This has been proved by an overwhelming support by our citizens, as demonstrated at many rallies and meetings both in the country and among the expatriate communities abroad. The National Assembly understands the unity of the people as support to the State authorities to persist in their policy and as a resolute request by the people for the freedom, independence, honour and dignity of our State to be defended, and as an obligation for the competent authorities to take necessary steps and act accordingly.
3. The National Assembly expresses the determination of Serbia to reach a rapid, peaceful and political agreement and to have law and justice silence power and injustice. At the same time, the National Assembly expresses its unity in the determination to defend Serbia and the Federal Republic of Yugoslavia from any aggressor, whoever he may be and regardless of the motives used to justify his crime.

ANNEX 13

**P416, Joint Statement by the President of the Republic of Serbia, Milan Milutinović
and Dr. Ibrahim Rugova, Priština, 28 April 1999**

The President of the Republic of Serbia, Milan MILUTINOVIĆ and Dr. Ibrahim RUGOVA have agreed on the following

JOINT STATEMENT

1. It is necessary to immediately renew and intensify the discussions begun between the Government of the Republic of Serbia and the political leaders of Albanian political parties in Kosovo and Metohija on the political agreement which grants Kosmet extensive self-government, along with full respect for the equality of all citizens and national communities, the sovereignty and territorial integrity of Serbia and Yugoslavia. It was noted that such an approach constitutes a basis for a lasting and just solution to the Kosmet problem.
2. Both sides concluded that the talks should be direct, along with the equal participation of all the national communities which reside in Kosovo and Metohija, which is a precondition for achieving acceptable solutions for all who live in Kosovo and Metohija. Direct talks should be a reaffirmation of the strengthening of mutual trust as an essential condition for finding a way out of the current situation.
3. On the basis of the agreement of both sides, representatives of the international community may attend the talks as guests.
4. Agreement was reached on the need to establish soon, under changed conditions, the Provisional Executive Council of Kosovo and Metohija which would perform the function of an provisional government until the constitution of the organ on the basis of the Basic Document on Self-Government in Kosovo and Metohija. The composition of the Provisional Executive Council and its internal organisation, and especially the distribution of new portfolios among the administration organs, must take into account the current problems in Kosovo and Metohija.

Dr. Ibrahim RUGOVA
/signed/

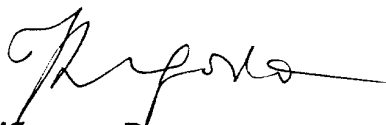
Milan MILUTINOVIĆ
President of the Republic of Serbia
/signed/

In Priština, 28 April 1999

Председник Републике Србије Милан Милутиновић и Др Ибрахим Ругова сагласили су се о следећој

ЗАЈЕДНИЧКОЈ ИЗЈАВИ

1. Потребно је да се одмах обнове и интензивирају започети разговори између Владе Републике Србије и политичких лидера политичких партија Албанаца на Косову и Метохији о политичком споразуму, којим се Космету даје широка самоуправа, уз пуно поштовање равноправности свих грађана и свих националних заједница, суверенитета и територијалне целовитости Србије и Југославије. Констатовано је да овакав приступ представља основу за трајно и праведно решење проблема на Космету.
2. Обострано је закључено да разговори треба да буду директни, уз равноправно учешће свих националних заједница које живе на Косову и Метохији, што је предуслов да се постигну прихватљива решења за све који живе на Косову и Метохији. Директни разговори треба да буду потврда јачања међусобног поверења као битног услова за излазак из садашње ситуације.
3. На основу обостране сагласности, разговорима, у својству госта, могу да присуствују представници међународне заједнице.
4. Постигнута је сагласност о неопходности скорог формирања, у промењеним условима, Привременог извршног већа Косова и Метохије, које би вршило функцију привремене владе до конституисања органа на бази Основног акта о самоуправи на Косову и Метохији. Састав Привременог извршног већа и његова унутрашња организација, посебно утврђивање нове ресорне поделе органа управе, треба да уважава садашње проблеме на Косову и Метохији.



Др Ибрахим Ругова



Милан Милутиновић
председник Републике Србије

У Приштини, 28. априла 1999.

ANNEX 14

**Tr. 8506-8507, Statements to the press by Mr. Milan. Milutinović and Dr. Ibrahim
Rugova, Priština, 28 April 1999**

WITNESS: ADNAN MEROVCI [Resumed]

Wednesday, 17 January 2007 298

Cross-examination by Mr. O'Sullivan: [Continued]

page 8505

1 video start.

2 Let's make sure that it's on the screen for Mr. Merovci. Are we
3 set for Mr. Merovci. Okay.

4 [Videotape played]

5 MR. O'SULLIVAN: Can we stop there, please.

6 Q. In that frame, we see the six of you sitting in the room; and
7 facing the camera at the far end is Mr. Milutinovic and to his right is
8 Dr. Rugova, and you are sitting to the right of Dr. Rugova; correct?

9 A. Correct.

10 MR. O'SULLIVAN: Can we continue.

11 [Videotape played]

12 MR. O'SULLIVAN: Can we stop, please.

13 Q. That's Mr. Andjelkovic we see on the screen?

14 A. Yes, correct.

15 MR. O'SULLIVAN: Can we continue.

16 [Videotape played]

17 MR. O'SULLIVAN: Can we stop there.

18 Q. Looking at the screen, the man on the left with the moustache is
19 Mr. Sainovic and to his left is Professor Markovic; correct?

20 A. Correct.

21 MR. O'SULLIVAN: Your Honour, when the tape continues, there will
22 be the text of -- Mr. Milutinovic and Dr. Rugova giving their statements.

23 The interpreters have been provided with a transcript to facilitate
24 interpretation. The speakers are speaking Serbian. Can we continue.

25 [Videotape played]

WITNESS: ADNAN MEROVCI [Resumed]

Wednesday, 17 January 2007 299

Cross-examination by Mr. O'Sullivan: [Continued]

page 8506

1 THE INTERPRETER: [Voiceover]

2 "Mr. Milutinovic: I believe that Mr. Rugova and I have talked for
3 the second time, and like you know on several meetings before that we've
4 had starting with the one in Belgrade between President Milosevic and
5 Dr. Rugova. Today we have agreed on joint statement which we'll be giving
6 to you later on, in which we have pointed out the necessity of renewal of
7 the talks between the Republic of Serbia government and political leaders
8 and Albanian political leaders in Kosovo and Metohija on political
9 agreement under which Kosovo will be given wide self-governance with full
10 respect of equality between all the citizens and all the communities as
11 well as the sovereignty and territory integrity of Serbia and Yugoslavia.
12 We have considered this approach for basis and lasting right of the
13 problem in Kosovo. We have both concluded that talks shall be direct with
14 equal participation of all the national communities that reside in Kosovo
15 and Metohija and that such talks should be direct -- that should be a
16 direct approval of stronger mutual trust which is a vital condition for
17 getting out of the present situation.

18 "We have agreed as well that on the basis of our mutual agreement
19 in the role of guest of the international community should be present.
20 And lastly, under item 4, we have agreed on the necessity of temporary and
21 alter conditions in which the temporary Executive Council should be
22 functioning until the establishment of the bodies which have been provided
23 for in the agreement, of which we will talk. This is the essence of
24 today's talks. We have concluded that the bombing and the aggression on
25 our country should be put to a stop as soon as possible. We think that

WITNESS: ADNAN MEROVCI [Resumed]

Wednesday, 17 January 2007 300

Cross-examination by Mr. O'Sullivan: [Continued]

page 8507

1 the international community will today and from this place adopt our
2 appeal and that this should be a precondition for the people to come back
3 to their homes and start a normal life in all the national communities and
4 surroundings because of the simplest reason and that is without common
5 life of all the national communities there is no lasting peace in the
6 area.

7 "Dr. Rugova: This situation, the most important thing is that we
8 have established mutual -- more mutual trust even though we had it even
9 earlier while we were on agreement on Kosova, so we had trust now and in
10 last context in Belgrade with Milosevic, Milutinovic, and Sainovic as
11 vice-president of the government, so we have made it to cooperate it, of
12 course is that we will continue to achieve the solution for Kosova and our
13 main goal is to get out of this present situation.

14 "We will intend to form the bodies in Kosova, the Kosova
15 institutions that will be for the nationalities and for the citizens of
16 Kosova and what is more important, we have established new trust and
17 greater trust which the world will appreciate as well."

18 MR. O'SULLIVAN: Your Honour, can I ask that the transcript
19 reflect that beginning at page 7, line 5, Dr. Rugova is speaking.

20 JUDGE BONAMY: Thank you.

21 MR. O'SULLIVAN:

22 Q. Mr. Merovci, you heard what Mr. Rugova spoke of, he spoke of new
23 trust and greater trust, cooperation to achieve a solution for Kosovo,
24 getting out of the current situation, and forming new bodies for all
25 nationalities and all citizens of Kosovo. Now, isn't what Dr. Rugova said

ANNEX 15

**1D715, Draft Address by the President of the Republic of Serbia, Milan Milutinović,
at the Reception for a Delegation of the Ministry of the Interior of the Republic of
Serbia on the Occasion of 13 May, Security Day**

FROM: Vlajko STOJILJKOVIĆ 1852/99 11 May 1999	Received: (date) /illegible/ (int. no.)	/illegible/
	Record code: /illegible/	

RE: Celebration of Security Day - Draft address by President MILUTINOVIĆ - Guest list /handwritten: <u>urgent</u> ! /	URGENT VERY URGENT

TO:

NOTE:		
Date:	OBLIGATION: YES-NO:	Deadline:

DRAFT ADDRESS BY THE PRESIDENT OF THE REPUBLIC OF Serbia, MILAN
MILUTINOVIĆ, AT THE RECEPTION FOR A DELEGATION OF THE
MINISTRY OF THE INTERIOR OF THE REPUBLIC OF SERBIA ON THE
OCCASION OF
13 MAY, SECURITY DAY

My congratulations to all members of the Ministry of the Interior of the Republic of Serbia on 13 May, Security Day, I wish them much success in their future work carrying out responsible tasks for the protection of the security of the Republic of Serbia and for the safety of all its citizens and their property. Allow me to take this opportunity to commend you for the successful completion of your tasks, for your courage, determination and readiness to fight terrorists in Kosovo and Metohija without compromise, even at the risk of your lives, and to secure peace and security for the citizens in the whole territory of Serbia during the aggression by NATO forces, which will be remembered in history as an example of a crime against a sovereign state and a freedom-loving population devoted to peace, equality and the progress of humanity.

Through your dedicated work and lawful activities you have earned the citizens' respect and reinforced their trust and have thus fulfilled your professional and human task in the best possible way. The Republic of Serbia has highly qualified security forces which are the guarantee that even the most complex tasks will be carried out professionally, competently and lawfully. You have proved this at a time unprecedented international pressures, during the escalation of terrorism in Kosovo and Metohija and especially after the beginning of aggression against our country, through your patriotism, devotion, courage, and high level of ethics and humaneness, for which I specially commend you.

In the first days of the aggression, members of the Ministry of the Interior increased their engagement and dedication to adapt their activities to the newly-created conditions and fully completed all their tasks. Stable public order and a high level of security for citizens' persons and property security were established in the whole territory of the Republic of Serbia. Through their dedicated work, members of the crime police managed to decrease the total number of crimes, applied the most vigorous measures to prevent all unlawful activities related to speculation and other activities in the production and sale of consumer goods, medicaments and fuel. Members of the traffic police made a great contribution to the improvement of traffic safety, the border police also achieved good results, and conditions were created for the citizens to exercise their administrative rights even in such strenuous circumstances. The fire brigades – members of the fire prevention police - also demonstrated their dedication in removing the consequences of the aggressor bombing and in taking care of the civilian population.

We demand that the bombing be stopped and the aggression ended immediately; we advocate peace and finding a solution through political means, and continuing direct talks between the Government of the Republic of Serbia and the representatives of Kosovo Albanians with full equality of all national communities. The constantly increasing support of world forces devoted to peace and equality and the intensified diplomatic and political process give hope for a just and peaceful solution for Kosovo and Metohija, and for the restoration of peace in our regions. In this respect I hope that your future work continues to exclusively serve the peace, development and prosperity of our society,

I congratulate you once again on your forthcoming holiday, convinced that in future you will continue to carry out efficiently, honourably, responsibly and lawfully your tasks in the protection of the constitutional order, strengthening the security of the Republic and securing the peaceful and serene life and work of all its citizens.

**LIST OF LEADING MEMBERS OF THE MINISTRY OF THE
INTERIOR WHO WILL ATTEND THE RECEPTION OF THE PRESIDENT
OF THE REPUBLIC OF SERBIA**

1. Vojko STOJILJKOVIĆ, Minister
2. Colonel General Vlastimir ĐORĐEVIĆ, Assistant Minister and Chief of the RJB /Public Security Department/
3. Lieutenant General Obrad STEVANOVIĆ, Assistant Minister and Chief of the Police Administration
4. Major General Stojan MIŠIĆ, Assistant Minister
5. Major General Petar ZEKOVIĆ, Assistant Minister
6. Lieutenant General Dragiša DINIĆ, Assistant Chief of the RJB and Chief of the USP /Traffic Police Administration/
7. Major General Marinko KRESOJA, Assistant Chief of the RJB and Chief of the Novi Sad SUP
8. Major General Dragan ILIĆ, Chief of the Crime Police Administration
9. Major General Slobodan SPASIĆ, Chief of the Fire Prevention Police Administration
10. Major General Senta MILENKOVIĆ
11. Major General Branko ĐURIĆ, Chief of the Belgrade SUP
12. Major General Sreten LUKIĆ, Deputy Chief of the Belgrade SUP and Commander of the Priština MUP Staff
13. Major General Radojica MAKSIMOVIĆ, Dean of the Police Academy
14. Danilo PANTOVIĆ, Head of the Minister's Office
15. Colonel Ljubomir ALEKSIĆ, Deputy Chief of the Police Administration
16. Zdravko SKAKAVAC, Chief of the Niš SUP
17. Momčilo TALIJAN, Principal of the College of Internal Affairs in Zemun
18. Stanoje MILANOVIĆ, Principal of the Secondary School of Internal Affairs in Sremska Kamenica
19. Milivoje MARKOVIĆ, Chief of the Operations Centre
20. Major General Momčilo STOJANOVIĆ, Assistant Chief of the RJB

STATE SECURITY DEPARTMENT /RDB/

1. Colonel General Radomir MARKOVIĆ, Assistant Minister and Chief of the RDB
2. Major General Nikola ČURČIĆ, Assistant Minister and Deputy Chief of the RDB
3. Branko CRNI, Assistant Chief of the RDB
4. Franko SIMATOVIĆ, Assistant Chief of the RDB
5. Olga REŠETAR, Assistant Chief of the RDB
6. Milan RADONJIĆ, Chief of the RDB Centre in Belgrade
7. Miroljub NIKOLIĆ, Chief of the 8th RDB Administration
8. Slavko MANDIĆ, Chief of the 10th RDB Administration

ANNEX 16

**1D114, Letter from Representatives of the National Communities to the Co-chairs,
18 March 1999**



**DELEGATION OF THE GOVERNMENT
OF THE REPUBLIC OF SERBIA
Meeting in Paris**

Paris, 18 March 1999

Co-Chairmen:

H.E. Mr. Hubert VEDRINE

Minister for Foreign Affairs of France

Right Honorable **Robin COOK**

Secretary of State for Foreign and
Commonwealth Affairs of Great Britain
and Northern Ireland

Excellencies,

We, the representatives of the national communities, members of the Delegation of the Government of the Republic of Serbia, at our today's meeting with negotiators - C. Hill, W. Petritsch and B. Mayorskiy - again advanced our comments on the text of the proposed agreement. In this letter we would like to inform you as well of these positions.

The text that has been offered to us departs from the principles of the Contact Group of 29th January 1999, as a basis for a political solution. It denies the equality of national communities and favors only one national community - Albanians, by establishing the principle of setting up institutions, organs and decision making on the basis of majority. Therefore, the proposed agreement does not resolve the problems but deprives us, the members of other national communities - Serbs, Montenegrins, Muslims, Turks, Romanies and Albanians who are committed to a common life, of political rights and reduces us to second class citizens with some sort of cultural autonomy.

The text of the agreement reduces the rights of national communities in Kosovo and Metohija to a mere declaration and through institutions practically introduces overruling. In the latest proposed text you did not even mention us - more than 600.000 citizens as members of national communities living in Kosovo and Metohija.

There is a number of national communities living in Kosovo and Metohija. The essence of autonomy we are committed to is that their rights should be equal. Our major objection is that the proposed

agreement grants political rights only to one national community, while all other national communities should defend their rights from that favored national community. For us, autonomy means that we can equally take part in decision making and not only be given declaratory right to defend ourselves from the decisions made by majority. The historical experience in Kosovo and Metohija tells us that the defense of endangered rights always leads to conflicts. Therefore, the solution without conflicts is possible only if the rights of national communities are truly equal and guaranteed and if they are truly exercised in self-governing institutions.

If the national communities are not equal in the agreement, if the national communities are not equal not even when the agreement is concluded, if direct talks are refused, what kind of equality can we count on in the implementation of the agreement?

We are astonished that such approach has been embraced towards political solutions. It is our rights that are at stake here - whether we will be able to stay and live there with our families in peace, get jobs and work and keep our property and whether we will have institutions that will be functioning and which will enable us to defend our interests and exercise our rights.

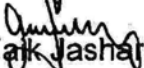
The agreement you offered does not provide for that. On the contrary. The agreement you proposed means that we should leave Kosovo and Metohija in order to fulfil the aspirations of separatists. In doing so, the Contact Group in Rambouillet and in Paris in the name of human rights deprives of rights our national communities, while directly supporting separatism and terrorism.

We want the agreement which ensures equality; we want the agreement which will push us in a ghetto; we want the solutions protecting us from forcible assimilation and Albanisation; we want to stay in Kosovo and Metohija and live there as free and equal citizens.

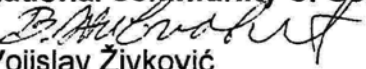
That is why we once again resolutely ask you, as those responsible on behalf of the Contact Group to consider our proposals in good faith. Do not let separatism, terrorism and ethnic cleansing prevail in multicultural, multi-confessional and multi-ethnic Europe. Our proposals do not threaten any national community. They defend equality, common life in peace, multi-ethnic and multi-confessional Kosovo and Metohija. Please commit yourselves to the solutions ensuring equality for all citizens and national communities, ensure solutions which may contribute to life in peace and development of Kosovo and Metohija.

FOR
national community of Albanians


Sokolj Çuse
Democratic Reform Party of Albanians

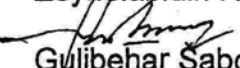

Falk Jashari
Kosovo Democratic Initiative

FOR
national community of Serbs and Montenegrins


Vojislav Živković

FOR
national community of Turks

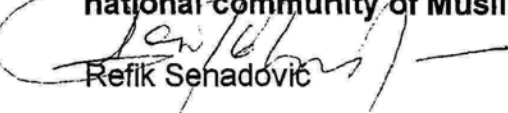

Zeynelabidin Kureys


Guljehar Sabović

FOR
national community of Goranians


Ibro Vali

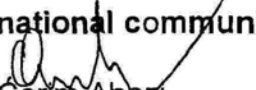
FOR
national community of Muslims


Refik Senadović

FOR
national community of Romanians


Ljuran Koka

FOR
national community of Egyptians


Cerim Abazi

ANNEX 17

**1D79, Declaration of the President of the Republic of Serbia, Milan Milutinović on
the Political Process in Kosovo and Metohija, 18 March 1998**

DECLARATION

of the President of the Republic of Serbia Milan Milutinovic
on the political process in Kosovo and Metohija

Procrastination and delaying the start of a direct political dialogue between the representatives of the Government of the Republic of Serbia and those of the Albanian political parties in Kosovo and Metohija is unjustified and damaging. This delays the reduction of tensions and hinders the political process of the resolution of problems, upon which hinges the implementation of equal rights of all citizens and the promotion of peace, tolerance and mutual respect in Kosovo and Metohija.

I appeal to the leaders of the political parties of the Albanian national minority in Kosovo and Metohija to enter into political dialogue without delay and preconditions. In my capacity as President of the Republic, I am prepared to be the guarantor of such discussions based on the principle of preserving territorial integrity and of including in the agenda the issue of self-government for Kosovo and Metohija within Serbia.

Political means and peaceful methods are the only acceptable way of settling the problems in Kosovo and Metohija. It is only through dialogue that lasting solutions can be found for all problems, taking as a starting-point achievement of the principle of equality of all citizens, including equal rights for the members of national minorities, in accordance with the highest international standards of the United Nations, the Organization for Security and Cooperation in Europe and the Council of Europe.

I underscore the importance of a further involvement and presence of the International Committee of the Red Cross in the conduct of humanitarian activities. The competent authorities will continue to guarantee all the conditions for the normal activities of the ICRC also in the future.

I believe that the international community, in particular countries in the region, should, in accordance with the international standards, refrain from all activities which contribute to the heightening of tension and which encourage separatism, or which constitute interference in our internal affairs.

The Federal Republic of Yugoslavia as a European country, committed to the purposes and principles enshrined in the United Nations

Charter, the Helsinki Final Act and the Paris Charter, and determined to participate actively in the ongoing integration processes, while Serbia as part of the Federal Republic of Yugoslavia is interested and open to cooperate with the OSCE, which implies that our country, the Federal Republic of Yugoslavia, should be restored its membership rights and obligations. In this respect, cooperation with an OSCE mission of long duration should be restored on the basis of an agreement, modelled on a similar mission which achieved positive results in its work in 1992 and which projected to the international public a more objective picture of the situation in Kosovo and Metohija.

Education of the younger generations is one of the most important issues in life. That is why I call on the 3+3 Group to proceed immediately to the implementation of the Agreement on the normalization of education. That would also serve as an encouragement for the resolution of other issues as well as for the successful implementation of the rights and interests of all citizens in Kosovo and Metohija.

I point out my conviction that the future of the citizens in Kosovo and Metohija, as well as those in Serbia and in all of our country does not lie in ethnic, religious or cultural closing-up and divisions but in peace, equality, integration and life together.

I trust that all citizens and the responsible political forces in Serbia and in our country as a whole, support the policy of equality of citizens, preservation of sovereignty and territorial integrity and of an open and equitable cooperation with other countries and with the international community.

Belgrade, 18 March 1998

ANNEX 18**1D83, Statement, President of the Republic of Serbia, 7 April 1998**

724/314/4

REPUBLIC OF SERBIA
April 7, 1998.
Pristina

THE STATEMENT
President of The Republic of Serbia
Milan Milutinovic
in Pristina

In the Declaration on the political process in Kosovo and Metohija, dated March 18, 1998, I have clearly invited the leaders of Albanian political parties in Kosovo and Metohija, to start the dialog, without any delays and preconditions. By this, I have expressed my readiness, that I, myself, -am the warrant, of the seriousness of the discussions. Coming here today, I wanted to underline the significance we appraise these talks with.

Unfortunately, the invited representatives of Albanian political parties did not come to take part in a timely announced talks. They, themselves, once again, neglected our invitation for a political dialog. Such, no doubt, irresponsible attitude of Albanian political parties speaks for itself to our public and all good will people in the World, because any further delay or refusal, made under an amateur and transparent excuses and preconditioning, just delays the elimination of tensions and blocks the process of political resolution of the issue.

Furthermore, the respective is against the interests of the Albanian national minority itself, and against the interests of all living in Kosovo and Metohija, but this is also the interest of those powers that would want to create the ground for fulfilling their intentions in this area. Such a behavior of Albanian political parties is used as an alibi for further pressure against our country.

Today's act of the Albanian political parties is the best proof that we were right opening the initiative that all the citizens of our Republic, including the citizens of Albanian nationality, should clearly state their position in the referenda, of what is the way to approach in the resolution of our internal matters.

Therefore, once again, I emphasize that the future of all the citizens of Kosovo and Metohija, as well as, of Serbia and the whole country, is not in ethnic, religious, or cultural cessation and division, but it is in the equality and well linked mutual life.

Therefore, we, regardless of their today's absence, remain patient and open for a constructive dialog, because, this is the only way to reach the solution that would be of a long-term interest of all people living and working in Kosovo and Metohija.

Accordingly, I, myself, am personally ready to meet with, at any moment in Belgrade, whenever the representatives of the Albanian political parties decide so.

ANNEX 19

**1D88, Public Announcement, Republic of Serbia, Office of the President, Belgrade,
14 November 1998**

REPUBLIC OF SERBIA
Cabinet of the President

Belgrade, 14th November 1998

P U B L I C S T A T E M E N T

The Cabinet of the President of the Republic of Serbia has announced that the President Milan Milutinovic sent invitations for the continuation of the dialog on political solution of the problem in Kosovo and Metohija for Wednesday 18th November in Pristina, as was announced yesterday during Ambassador Christopher Hill's reception.

President Milutinovic has established that the conditions for direct meetings and talks on finding a political solution for the problems in Kosovo and Metohija were achieved.

In sending this invitation for the continuation of the dialog, President Milutinovic has emphasized that only through dialog and political means can a solution in the interest of all the citizens and national communities from Kosovo and Metohija be achieved.

In the announcement from the Republic of Serbia's Presidential Cabinet, it is said that due to the significance and the essence of the problem, President Milutinovic will personally chair this meeting, and he has decided to invite as guests Ambassador Christopher Hill, special US representative for Yugoslavia, Ambassadors of the Russian Federation and People's Republic of China, as well as Ambassador of Austria as representative of the European Union.

ANNEX 20

**1D89, Public Statement, Republic of Serbia, Office of the President, 19 November
1998**

REPUBLIC OF SERBIA
Cabinet of the President
19th November 1998

P U B L I C S T A T E M E N T

Today, the President of the Republic of Serbia, Milan Milutinovic, has met individually with delegations from the People's Party of Kosovo, led by Muharem Ibraj, Faik Jašari from the Kosovo Democratic Initiative, Guljehari Reufi Šabović, representative of the National Community of Turks, Ibra Vaita, representative of the National Community of Gorans, the delegation of the National Community of Muslims led by Refik Senadović, Koka Ljuan, representative of the National Community of Roma, Ćerim Abazi, representative of the National Community of Egyptians and Ljubiša Stevanović as a representative of the political parliamentary parties from Kosovo and Metohija.

In this manner, the talks on the progress of the political process and the continuation of dialog in order to find a mutual, modern and democratic solution to the problem in Kosovo and Metohija, which started in Pristina on 18th of November this year, were continued. Based on the conclusions from yesterday's meeting in Pristina, representatives of the national communities and political parties from Kosmet have stressed, in detail, their specific remarks and suggestions, in other words, how they see the solution to the institutional and political problem in Kosovo and Metohija. All the participants in today's talks have emphasized that their suggestions and remarks leave enough space for the continuation of talks and the start of essential dialog on the topic of concrete solutions, which is in the interest of all citizens and national communities that live in Kosovo and Metohija.

It was emphasized again that although all well-intentioned ideas from outside are welcomed, only citizens of Kosmet, Serbia and FRYugoslavia can best define the elements for a political solution for Kosovo and Metohija along with bringing tolerance, understanding and trust to a higher level.

Open dialog, like this one today, proves that real equality of all national communities in Kosmet is possible, and it will be fully respected according to the constitutional system of the Republic of Serbia and Federal Republic of Yugoslavia, respecting the principle of equality, preserving the identity of national communities, as well as by the application of international standards in the field of national communities rights protection.

ANNEX 21**1D602, Press Release, Republic of Serbia, Office of the President, 20 November 1998**

/Handwritten: 2415/4/

REPUBLIC OF SERBIA
Office of the President
20 November 1998

PRESS RELEASE

The President of the Republic of Serbia, Milan MILUTINOVIĆ, had separate talks today with Gorica GAJEVIĆ, general secretary of the Socialist Party of Serbia and Milomir MINIĆ, member of the SPS executive committee; Dr Vojislav ŠEŠELJ, president, and Tomislav NIKOLIĆ vice-president of the Serbian Radical Party; Ljubiša RISTIĆ, president of the Yugoslav United Left; Vuk DRAŠKOVIĆ, president of the Serbian Renewal Movement; Dušan MIHAJLOVIĆ, president and Radomir LAZAREVIĆ, vice - president of the New Democrats as well as Jožef KAS, president of the Alliance of Vojvodina Hungarians.

The talks related to the views and proposals of these parties and how a universally acceptable platform could be reached as soon as possible for a political solution to the problem in Kosovo and Metohija. In the process, the interlocutors underlined that the political solution should, in entirety, be set on the agreement of the President of the Federal Republic of Yugoslavia, Slobodan MILOŠEVIĆ, and Ambassador Richard HOLBROOKE, and the 11 points of the Government of Serbia which are a political framework for a solution to the problem in Kosovo and Metohija.

In the consultations it was concluded that peace and communal life in Kosovo and Metohija are possible only through real equality of all ethnic communities. It was stated that the form of the solution to the problem in Kosovo and Metohija is democratic self-government within the framework of the constitutional system of Serbia and the Federal Republic of Yugoslavia at the same time respecting the basic principles of equal rights and duties of all citizens, equality of all ethnic communities and additional rights to preserve the identities of ethnic communities on the proviso that all ethnic communities will not use their additional rights to the detriment of other ethnic communities.

ANNEX 22

1D603, Press Release, Republic of Serbia, Office of the President, 20 November 1998

Translation

322

/Handwritten: 2417/4/

REPUBLIC OF SERBIA
Office of the President
20 November 1998

PRESS RELEASE

The President of the Republic of Serbia, Milan MILUTINOVIĆ, has called for a continuation of dialogue on the political solution to the problems in Kosovo and Metohija for Wednesday, 25 November in Priština.

A joint draft of the Agreement on the political frameworks of self-government in Kosovo and Metohija will be examined at the meeting, which were prepared by representatives of the national communities and political parties participating in the meetings on 18 November in Priština and 19 November in Belgrade.

Invitations along with the text of the joint draft of the Agreement were also sent to representatives of those political parties that did not take part in the talks on 18 November, together with a repeated call that this time they take part in the work of the next discussion without fail.

ANNEX 23

1D604, Press Release, Republic of Serbia, Office of the President, 23 November 1998

Translation

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/Handwritten: 2434/4/

REPUBLIC OF SERBIA
Office of the President
23 November 1998

PRESS RELEASE

The President of the Republic of Serbia, Milan MILUTINOVIĆ, today received Ambassador Christopher HILL, special representative of the United States to the Federal Republic of Yugoslavia, along with his aides.

The discussion was based on the current situation in Kosovo and Metohija, the current process for a political solution to the problem in Kosovo and Metohija, and especially on the discussions and consultations of 18 November in Priština as well as those of 19 and 20 November in Belgrade with the representatives of the ethnic communities, political parties, representatives of the parliamentary parties from Kosovo and Metohija, and with the leading parliamentary parties in the Serbian Assembly.

The result of all these talks and consultations is a joint agreement on the political frameworks of self-government in Kosovo and Metohija which completely affirms full equality for all ethnic communities. In addition, all legal solutions for establishing self-government in Kosovo and Metohija should be in agreement with the legal systems of the Republic of Serbia and the Federal Republic of Yugoslavia, as well as with international standards and basic documents.

Jointly it was judged that a broad self-government, based on the equality of ethnic communities is the main pillar for a political solution and a condition for overcoming tension and conflict.

At the discussion it was stated that the repeated attacks by terrorist bands of Albanian separatists on innocent civilians, police officers and soldiers should be resolutely stamped out. It was noted that such acts of terrorism, with harsh consequences, present a serious obstacle to dialogue and hinder efforts for the overall stabilisation of the situation in the Province. President MILUTINOVIĆ expressed the expectation that the international community and Ambassador C. HILL personally, will condemn these terrorist acts and prevent further support from abroad for the terrorist bands of Albanian separatists by practical and visible measures.

Also taking part in the discussion were Dr Ratko MARKOVIĆ, head of the state delegation and Deputy Prime Minister of the Government of Serbia. Dr Vladan KUTLEŠIĆ, personal envoy of the President of the Federal Republic of Yugoslavia, Slobodan MILOŠEVIĆ, to the political dialogue on Kosovo and Metohija, and Deputy Prime Minister of the Federal government.

Translation

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1D07-2329

ANNEX 24

**P604, pages 218-221, Mr. Milutinović's Interview with Investigators of the Office of
the Prosecutor, 12-13 November 2001**

23A/1A11

English - BCS Transcript
J. R.

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19 Kevin CURTIS:

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26 Milan MILUTINOVIĆ:

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So, at this stage, what I'd like to say to you is that you're very free to say whatever you want and to clarify anything, to make a statement about anything, it's – the choice is yours, unless you make a statement that – that prompts more questions, I don't anticipate that we will ask any more questions.

You know, I don't know what to tell you. I try my best to answer on all your questions, you know, and some questions – I don't remember majority of them, but not because I don't like to remember, some of them I really don't remember. And that I explained you, in all interview, camera view everything, and you can see it that in the elements I remember I said, but I was out of the game in some many things in the political life of the country all this period, including Kosovo, except the

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23/01/03

English BCS Transcript
J. R.

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1 problem of the negotiations before Rambouillet and the
 2 Albanians and the educational system, because
 3 everybody knows that I'm the best in that. So – and I
 4 spent all time on that. So, my responsibility, I can assure
 5 you, is only limited on that. You may try from now on,
 6 ten years in advance to find any my quarrel of breaking
 7 order or, let's say, whatever you say, expect – except,
 8 you know, speeches in the media in that time, doesn't
 9 matter for that, but not committed any of – of -- of
 10 those crimes. I can say you on the – at the end what I
 11 said in so many – several occasions, I can make you a
 12 political speech, but you have nothing of that, you
 13 know, what means bombing, what means before
 14 bombing, how we can escape, whether I tried to escape.
 15 I was educated person born in Belgrade, I was educate
 16 and I was always connected with, let's say, human
 17 rights, with the field which was, how to say, cultural
 18 life, educational life, especially, and parallel with that
 19 theoretical approach, and practical, about general
 20 diplomatic relations of the country, but, as the
 21 profession, not as the politician, I will just underline, as
 22 the profession, so – and because of that my attitude too,
 23 I try my best – the – even of this post – to influence as
 24 much as possible, to – how to say, to avoid the war,
 25 avoid the bombing, avoid all these things, and I – I –
 26 because of that, I – I stand on the – on that place all the
 27 time, my family, my – how to say, some friend –
 28 criticise me about that but I said is better to be in, to
 29 help, than to be out and criticise.

30
 31 Radoje STEFANOVIĆ: /incomprehensible/ of one person . . .

32
 33 Milan MILUTINOVIĆ: Yes, so – and . . .

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Page 10 of 11
 Video Tapes 1-7
 13-000-0000 Interview

2101A03

English - BCS Transcript
J. R.

329

K0351406

- 1 Radoje STEFANOVIĆ: ... I'm one of them, ...
- 2
- 3 Milan MILUTINOVIĆ: ... And ...
- 4
- 5 Radoje STEFANOVIĆ: ... in advance, Milan, in advance.
- 6
- 7 Milan MILUTINOVIĆ: Yes, in advance. So, that is the – that is the situation, so
- 8 I can tell you more stories about that, but I don't think
- 9 that is useful. I think that I answer on all you questions,
- 10 completely fair in – in the sense of the truth, first of all,
- 11 and if I said that I don't remember some date, please
- 12 accept that because my nature is that – bad things to –
- 13 to, let's say, not to diminish but to expel from the head.
- 14 Even the good things, you know. You ask me about this
- 15 – all those international meetings I have, excellent
- 16 meetings with so many of dignitaries in – in the world,
- 17 with some of them I was friend before and I know all of
- 18 them before I met, except some, let's say, third
- 19 countries, they – them I met later. But all previous
- 20 structures I know, and I started to be very, very young
- 21 member of the parliament, I was the youngest member
- 22 of the parliament ever in the country in '66, and during
- 23 the Tito time in '69, I beat the Mayor of Belgrade in '69,
- 24 so – Ivica KOVAČEVIĆ, you remember, so – as the
- 25 independent candidate, so – what I would like to
- 26 underline – I could you speak you, let's say, political
- 27 stories, in '69 when I was the federal deputy, beat one
- 28 general and beat Mayor of Belgrade, and – as an
- 29 independent candidate, 26 years old, in the time of Tito,
- 30 you can't imagine what that means. So, and I remain as
- 31 it is, you know, same time with my own head, but, in
- 32 this last elections, I made mistake; I thought that I will
- 33 prevent bigger disaster with Mr ŠEŠELJ who was /sic –
- 34 possibly has/ extreme rightist and fascist approach

2101A03
English - BCS Transcript
J. R.

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English BCS Transcript
J. R.

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K0351407

1 towards all the questions in Yugoslavia, that the -- that I
 2 was only chance to stop him and after so many
 3 persuasion I accepted because the first candidate was
 4 Mr Zoran LINIĆ, and I beat him 60:40, you know, in
 5 the first round of 29, let's say, electorates, I beat him
 6 immediately in 27. So, that was the reason, and I
 7 obviously made a mistake, if I didn't do it that, I
 8 probably would not be on the list, somebody else would
 9 be on the list because, you know, I'm surprised that
 10 other people are not on -- on that list, because they all
 11 have, let's say, official duties and so on, that -- it's, yeah
 12 -- up to the court, all those things.

13
 14 Kevin CURTIS: And it seems such a shame that such a great career has
 15 to end in an indictment hanging over you.

16
 17 Milan MILUTINOVIĆ: Yes.

18
 19 Kevin CURTIS: Because, historically, that's what will be remembered,
 20 of course.

21
 22 Milan MILUTINOVIĆ: Yes, that is, unfortunately, that is ironical situation but,
 23 what I can do in that sense?

24
 25 Kevin CURTIS: Well, we've explained...

26
 27 Milan MILUTINOVIĆ: Yes, you explained, but I try my best, you know, I can't
 28 go out of my skin, you know, that is the problem.

29
 30 Milbert SHIN: Please, continue.

31
 32 Milan MILUTINOVIĆ: No, no, no, that's end. I say I promise not to have a big
 33 political speech.

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ANNEX 25**2D384 – Agreement on Self-Government in Kosovo, 15 March 1999**

Translation

332

Full Translation

Publication: **Politika**Date: **20 March 1999**Headline: **Agreement on Self-Government in Kosovo**Author/
Agency: **Politika**Page: **3-4**

Subject:

3 **POLITIKA** Saturday, 20 March 1999 3

DOCUMENTS**AGREEMENT ON SELF-GOVERNMENT IN KOSOVO**

This text contains the elements of basic self-government. Corrections have been made in accordance with these elements, which the Delegation of the Government of the Republic of Serbia had insisted upon since the beginning of the Rambouillet negotiations. Since those chapters of the Provisional Agreement which relate to the implementation of the Agreement were not adopted in the Contact Group, the Delegation of the Government of the Republic of Serbia refused to consider them. The proposal of the Delegation of the Government of the Republic of Serbia is based on the 10 basic principles of the Contact Group

Paris, 15 March 1999

Agreement on self-government in Kosmet /Kosovo and Metohija/

The signatories of this Agreement,
Convinced of the necessity for finding a peaceful and political solution in Kosmet, as a precondition for stability and democracy,

Determined to establish a peaceful environment in Kosmet,

Reaffirming their commitment to the principles and goals of the United Nations and to the principles of the

OSCE, including the Helsinki Final Act and especially the Charter of Paris for a New Europe,

Recalling the commitment of the international community to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia,

Recalling the basic elements – principles adopted by the Contact Group at its Meeting of Ministers in London on 29 January 1999,

Recognising the need for democratic self-government in Kosmet, including the full participation of members of all the national communities in reaching political decisions,

Wishing to ensure the protection of the human rights of all the people in Kosmet, as well as the rights of the

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members of all the national communities,

Stating that the present Agreement has been concluded under the auspices of the members of the Contact Group and the European Union, and accepting the obligation towards these countries and towards the European Union to adhere to this Agreement,

Aware that full compliance with this Agreement will be of key importance to the development of relations with European institutions,

Have agreed about the following:

FRAMEWORK

Article I: Principles

1. All the citizens of Kosmet shall enjoy, without discrimination, the equal rights and freedoms specified in this Agreement.
2. The national communities and their members shall enjoy additional rights set forth in Chapter 1. Neither the authorities in Kosmet nor the federal or republican authorities shall interfere with the exercising of these additional rights. The national communities shall be equal in a legal sense as specified herein and shall not use their additional rights to endanger the rights of the other national communities or the rights of citizens, or the sovereignty and territorial integrity of the Federal Republic of Yugoslavia, or the functioning of the representative democratic government in Kosovo.
3. All the organs in Kosovo shall fully respect human rights, democracy and the equality of citizens and national communities.
4. The citizens of Kosmet shall have the right to democratic

self-government through normative, executive, judicial and other institutions, established in accordance with this Agreement. They shall have the opportunity to be represented in all the institutions in Kosovo. The right to democratic self-government shall include the right to participate in free and fair elections.

5. Every person in Kosmet may have access to international institutions for the protection of their rights in accordance with the procedures of such institutions.
6. The Signatories accept to act exclusively within the framework of their powers and responsibilities in Kosmet, as specified in this Agreement. Any acts outside these powers and responsibilities shall be considered null and void. Kosmet shall have all the rights and powers that are listed herein, particularly those specified in the Basic Act in Chapter 1.
7. The Signatories agree to cooperate fully with all those international organisations that are operating in Kosmet as regards the implementation of this Agreement.

Article II: Confidence-building measures

Cessation of the use of force

1. The use of force in Kosmet shall cease immediately.
2. The status of the police and of the security forces in Kosmet shall be regulated by the conditions of this Agreement. The existence of paramilitary and irregular forces in Kosmet

is not in accordance with the provisions of this Agreement.

3. The signatories recognise the fact that all the refugees and displaced persons have the right to return to their homes. The appropriate organs shall take all the necessary measures in order to facilitate the safe return of persons and displaced persons. This shall include the issuing of necessary documents, under the condition that these persons are citizens of the FRY /Federal Republic of Yugoslavia/. The Signatories shall take all the necessary measures in order to receive to Kosmet all the persons returning.
4. The Signatories shall fully cooperate with all the efforts of the UN High Commissioner for Refugees (UNHCR) in relation to repatriation and the return of people. This shall include the monitoring of the handling of displaced persons and returnees upon their return by these organisations.

The access of international aid

5. There shall be no obstacles to the normal flow of goods into Kosovo, including building materials for the repair of houses and facilities.
6. All the staff, both domestic and international, who are working at international or non-governmental organisations, including the Yugoslav Red Cross shall have unlimited access to the citizens of Kosmet in order to provide international aid. Similarly, all the people in Kosmet shall have safe, unhindered and direct access to the staff of such organisations.

Other issues

7. The Federal Republic of Yugoslavia shall provide all the

necessary capacities, including frequencies for radio communication, to all the humanitarian organisations which are responsible.

8. All those people who had been kidnapped or are being held without charges shall be freed. The Signatories shall fully cooperate with the International Committee of the Red Cross (ICRC), in accordance with its mandate, in order to facilitate its work. This shall include full access to all such people at the location where they are being held, regardless of their status, in order to visit them in accordance with the usual ICRC procedures.
9. The Signatories shall provide information through the ICRC's search mechanisms to the families of all those, whose fate is unknown. The Signatories shall cooperate fully with the ICRC and with the International Commission for Missing Persons in their efforts to establish the identity, the place of residence and the fate of missing persons.
10. The Signatories:
 - a) shall not prosecute any person for criminal acts committed in relation to the conflict in Kosmet, except for people accused of crimes against humanity and international law. In order to facilitate transparency the Signatories shall allow access to foreign experts (including pathologists) together with state investigators;
 - b) shall declare a general amnesty for all persons already accused of having committed politically-motivated crimes in relation to the conflict in Kosmet. This amnesty shall not

extend to those persons who were appropriately charged with having committed crimes against humanity and international law during fair and open trials conducted in accordance with international standards.

Independent media

11. Acknowledging the significance of a free and independent media for the development of a democratic political climate that is necessary for the reconstruction and development of Kosovo, the sides shall ensure the widest possible freedom of the press in Kosovo for all media, both public and private, including the press, the television, radio and Internet.

Chapter 1

BASIC ACT

Affirming their dedication to a peace-loving society, justice, tolerance and reconciliation,

Determined to ensure respect for human rights and the equality of all citizens and national communities,

Recognising that the preservation and promotion of the national, cultural and linguistic identity of all the national communities in Kosmet are necessary for the harmonious development of a peace-loving society,

Desiring to establish, with this Basic Act, institutions of democratic self-government in Kosmet grounded in respect for the territorial integrity and sovereignty of the Federal Republic of Yugoslavia, based on this Agreement, from which the organs set forth herein originate,

Respecting the fact that the institutions in Kosmet must reflect the existence of the national communities

in Kosmet and help them exercise their rights and the rights of their members,

Recalling and endorsing the principles and basic elements that the Contact Group agreed on at its Meeting of Ministers in London on 29 January 1999,

Article I: The Principles of Democratic Self-Government in Kosmet

1. Acknowledging the multi-ethnic composition of Kosmet, basic self-government is founded on the self-government of citizens in Kosmet and on the self-government of the national communities in Kosmet.
2. Respecting the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the Republic of Serbia, essential self-government in Kosmet is founded on the widest powers and rules of the organs of Kosmet and of the national communities in Kosmet, however, only with federal organs and the organs of the Republic of Serbia being authorised and being able to exercise their rights in Kosmet.
3. All the federal laws shall be valid and shall be applied in accordance with the FRY Constitution in the entire territory of the FRY, including Kosmet.
4. All those republican laws, enacted in accordance with the Constitution of the RS /Republic of Serbia/ which are valid and can be applied based on a personal principle shall be valid and applied in Kosmet as well to those physical and legal entities that choose these regulations to be applied to them, or, these laws shall be

valid and shall be applied in those institutions, services and organisations that were founded by the Republic of Serbia, or whose mode of operation it determined, or whose work it financed (for example, laws in the field of education, science, culture, health, marital and family relations, adoption, custodianship, child and youth care, the welfare of combatants and disabled persons, inheritance, employment, social welfare, social security, and in other fields).

In the above fields the Assembly of Kosmet shall enact its own legally-binding laws which shall be valid and shall be applied to those physical and legal entities in Kosmet who choose the application of these regulations, or, those /laws/ that are valid and are applied in the institutions, services and organisations founded by Kosmet, or determined their mode of operation, or whose work it finances.

5. In those fields where the validity and the application of republican laws is not possible based on the personal principle, the Assembly of Kosmet shall enact its legally-binding regulations, which shall be valid for all physical and legal entities in Kosmet. However, during the decision-making process each national community shall be ensured protection from discrimination or endangering on an ethnic basis (for example, agriculture, environment, protection of plants and animals, hunting and fishing, use and management of land, public information, urban planning and construction,

organisation and work of the organs of Kosmet, public services of importance for Kosmet and other fields).

6. Each national community may prescribe separate rules for its members, in order to protect their specific national characteristics, subject to their approval (for example in the realm of marital and family relations, adoption, custodianship and inheritance).
7. In accordance with the Constitution of the FRY federal laws in the entire territory of the FRY, including Kosmet, shall be directly enforced by the federal organs through their regional organs (they shall enact enforcement regulations, individual legal acts and carry out administrative and inspection supervision);
8. Republican laws which are valid and implemented in Kosmet on the basis of personal principle, shall be enforced as they are in the entire territory of the Republic of Serbia, including Kosmet, by the republican organs (they shall enact enforcement regulations, individual legal acts, carry out administrative and inspection supervision).
9. Provincial regulations with legal effect implemented on the basis of the personal principle, as well as provincial regulations with legal effect which are valid and implemented for all physical and legal persons in Kosmet, shall be enforced by the organs of Kosmet (they shall enact enforcement regulations, individual legal acts, carry out administration control and inspection duties).

10. The special regulations of the national communities shall be enforced by the organs of that national community.
11. Kosmet shall have its own self-government through the normative, executive, judicial, and other organs and institutions specified herein. The organs and institutions of Kosmet shall exercise their responsibilities in accordance with the provisions of this Agreement.
12. All organs in Kosmet shall have full respect for human rights, democracy, and the equality of citizens and national communities.
13. The municipality shall be the basic territorial unit of local self-government in Kosmet. All those responsibilities and powers in Kosmet which are not expressly assigned elsewhere shall be the responsibility of the municipalities.
14. In order to preserve and promote democratic self-government in Kosmet, all those candidates who are appointed, elected, or hold other public offices, as well as all office holders, shall meet the following criteria:
For all candidates and office holders who renounce violence as a mechanism for achieving political goals their past political activities shall not constitute an obstacle to holding office in Kosmet.

Article II: The Assembly

1. Kosmet shall have an Assembly which shall comprise 130 members. Ninety-five members shall be elected directly by the citizens, through the system of proportionate representation.

Kosmet shall be one electoral unit. Thirty-five members shall be elected by the national communities of Albanians, Serbs, Turks, Roma, Egyptians, *Goranci* and Muslims, five members each.

The Assembly of Kosmet makes decisions from its competencies by the majority vote of those present and voting, unless otherwise stipulated by this Basic Act. When the Assembly of Kosovo enacts regulations which are valid and applied to all physical and legal entities in Kosmet (when no option exists for the regulations of the Republic of Serbia), such regulations shall be enacted by the majority vote of those members present and voting. In relation to the proposed regulation, at least three members from the same national community, elected by the national community, may initiate a separate procedure for the protection of their vital national interests in the following cases:

- regarding the election of the organs of Kosmet and the equal representation of all national communities in them;
- regarding the resettlement of the population;
- regarding impediments to rights being exercised;
- regarding endangering security;
- regarding the deterioration of living conditions;
- regarding the adoption of the budget of Kosmet.

In a separate proceeding managed by the President of the Assembly of Kosmet, together with the vice-presidents of the Assembly of Kosmet, those proposing the regulations and the representatives of the national communities elected by the national community, shall endeavour to eliminate the causes of the violation of vital national interests. Should this procedure prove to be unsuccessful (within 30 days of its initiation) and the regulation is not passed, a proposal

for its adoption may again be placed on the agenda of the Assembly of Kosmet, if at least six months have elapsed since it was established that the causes of the violation of vital national interests have not been eliminated.

2. The Assembly of Kosmet elects the President and six vice-presidents, one from each national community for a four-year term, at the proposal of the members elected by the national communities. No one shall be elected as President or Vice-President of the Assembly of Kosmet for more than two terms.

The President and vice-presidents of the Assembly of Kosmet shall decide by mutual agreement which of them will engage in which responsibility of the President of the Assembly of Kosmet.

The President of the Assembly shall promulgate the regulations passed by the Assembly of Kosmet, shall represent the Assembly of Kosmet, shall propose the agenda for the sessions of the Assembly of Kosmet and chair its meetings, shall hold regular meetings with the President of the National Assembly of Serbia and presidents of the Chambers of the Federal Assembly, shall maintain contacts with the organs of the national communities, shall propose candidates for the President of the Council of Ministers, shall propose candidates for judges of the courts in Kosmet, shall propose candidates for public prosecutors in Kosmet and shall perform other duties set forth in the Basic Act and other regulations.

Powers of the Assembly

3. The Assembly shall be responsible for passing legally-binding decisions and regulations in Kosmet, including in political, economic, social, educational, scientific and cultural fields as set out below and elsewhere in this Agreement.

(a) The Assembly shall be responsible for the following fields:

- (I) Financing the activities of institutions in Kosmet, including the collection of taxes and duties from sources /of income/ within Kosmet;
 - (II) Adopting the budgets of administrative bodies and other institutions in Kosmet, with the exception of municipal institutions and the institutions of the national communities, unless otherwise specified;
 - (III) Adopting regulations concerning the organisation, procedures and functioning of administrative bodies in Kosmet;
 - (IV) Approving the lists of ministers in the Council of Ministers, including the President
 - (V) Coordinating educational arrangements in Kosmet, with respect for the competence of the national communities and municipalities;
 - (VI) Selecting candidates, recommended by the President of Assembly of Kosmet, for judicial offices;
 - (VII) Establishing a framework for local self-government;
 - (VIII) Passing regulations concerning inter-municipal issues and relations between the national communities when necessary;
 - (IX) Passing regulations regulating the work of medical institutions and hospitals;
 - (X) Protecting the environment, regarding issues of inter-municipal importance; and
 - (XI) Adopting programs of economic, scientific, technological, demographic, regional, and social development, as well as urban planning;
 - (XII) Adopting programs for the development of agriculture and the village;
 - (XIII) Regulating the elections;
 - (XIV) Regulating property owned by Kosmet; and
 - (XV) Regulating land registries.
- b) The Assembly shall also be responsible for passing legally-binding

decisions and regulations in fields within the responsibility of the municipalities if the matter cannot efficiently be regulated by the municipalities, or if such regulation by certain municipalities might violate the rights of other municipalities on the basis of an agreement between these municipalities. In the absence of decisions passed by the Assembly in accordance with this subparagraph, one which precedes municipal action, the municipalities shall retain their powers /as printed/.

Article IV /as printed/: The Council of Ministers and Administrative Bodies

The Council of Ministers shall have an executive function. It shall be responsible for the enforcement of the regulations of Kosmet and shall make recommendations for their adoption to the Assembly of Kosmet.

The Council of Ministers shall be composed of the President and the ministers. The candidate for the President of the Council of Ministers shall be proposed by the President of the Assembly of Kosmet. The candidate for the President of the Council of Ministers shall compose a list of candidates for ministers ensuring that each national community is represented with at least one candidate. He shall submit the list to the Assembly for adoption. The President of the Council of Ministers cannot be from the same national community as the President of the Assembly of Kosmet. The Council of Ministers shall be elected when the list of candidates receives the majority of votes of the total number of members in the Assembly of Kosmet, i.e. when it receives the majority of votes by the representatives of each individual national community.

The administrative organs shall be responsible for assisting the Council of Ministers in carrying out its duties. The administrative organs of Kosmet shall be responsible for the direct implementation of laws and for decision-making in administration matters. When employing public officials working in the administrative organs each national community must be appropriately represented.

Article V: Courts and Implementation of Sanctions

1. The function of courts in Kosmet shall be performed by the courts of the Republic of Serbia, courts in Kosmet and the courts of the national communities.

The courts in Kosmet, except the courts of the national communities, shall implement the federal and republican laws, and legally-binding provincial regulations.

2. Citizens and legal entities in Kosmet shall have the right to choose the court which will try their case. Every citizen and legal entity in Kosmet may, at the start of court proceedings (civil, non-contentious proceedings and criminal proceedings) as prosecutor, petitioner or accused, choose whether the trial will be held before the Court of the Republic of Serbia or the Kosmet court. If other participants in the proceedings (the defendant or the plaintiff) are not members of the same national community as the prosecutor or the accused, they may request that the members of the jury be selected from members of their own national community. They are also entitled to other rights in the proceedings, as specified by the laws on proceedings.

The courts of the national communities may be established by those national communities which established separate rules for the settlement of disputes among the members of that national community, who accepted those rules and who agreed to the jurisdiction of these courts.

3. The Kosmet courts shall be established, organized and their judges and jurors elected by the Assembly of Kosmet. The Kosmet courts shall be established as first instance and appeals courts, and the High Court of Kosmet.

In addition to the competencies related to trials according to regular and extraordinary legal means, the High Court of Kosmet shall ensure that all regulations passed by the organs of Kosmet are in line with the Basic Act of Kosmet, and that other regulations and general acts of the organs of Kosmet are in line with legally-binding regulations passed by the Assembly of Kosmet, in a separate permanent chamber composed of five judges. In exercising this authority, this chamber may rescind any regulation or general act of the organs of Kosmet.

All the regulations and general acts of the organs of Kosmet passed from the jurisdiction of the federal and republican organs as determined by the Constitution of the Federal Republic of Yugoslavia and the Constitution of the Republic of Serbia, shall be null and void. Federal and republican laws and other general acts of the federal and republican organs passed in those fields in which Kosmet passes legally-binding regulations applied to all

citizens and legal persons in Kosmet, shall be null and void.

4. The function of the public prosecutor's office in Kosmet shall be held by the federal, republican and Kosmet public prosecutor. The federal and republican prosecutor shall appear before republican and Kosmet courts, whereas the Kosmet prosecutor shall appear before Kosmet courts. The establishment, organisation and jurisdiction of the Kosmet public prosecutor shall be specified by a regulation passed by the Assembly of Kosmet.
5. Any citizen in Kosmet who is sentenced to an unconditional prison term by a final and enforceable judgement of the Court of the Republic of Serbia or the Kosmet court, shall serve this sentence in a prison founded by the Republic of Serbia and according to the regulations of the Republic of Serbia regarding the implementation of sanctions if he is convicted by the republican court, and in a prison founded by the Assembly of Kosmet, according to regulations passed by the Assembly of Kosmet regarding the implementation of sanctions, if he is sentenced by the Kosmet court.

Local Police

6. The local police may be established in municipalities in Kosmet, as an organ performing certain police duties in the territory of the municipality.

The chiefs and heads of local police departments shall be appointed by the municipal administrative organ in charge of internal affairs with the approval of the representatives of all national

communities living in that municipality.

The composition of the local police shall reflect the national composition of the residents of the municipality.

In the local police of municipalities with a mixed population, departments shall be set up comprised of police officers who are members of the same national community. These departments shall engage in the tasks of the local police towards members of the same national community. Towards members of different national communities the tasks of the local police shall be jointly performed by local police officers from each department of the local police.

7. The local police shall be responsible for preventing minor violations of public law and order, for investigation and for other police tasks related to less serious criminal acts, for beat service and patrol activities, fire protection, traffic safety on local roads, the prevention of misdemeanours, registering and controlling the residence of citizens, designating personal identification numbers and issuing identity cards.

Other police duties (state security, foreigners, borders, serious criminal acts, weapons, ammunition, explosives and other hazardous substances, traffic on the local main roads /as printed/, passports, etc) shall be performed by the state police in those municipalities where local police have been set up and all the police duties in the municipalities where the local police have not been set up are being done by the state police. In larger places with a mixed national population, beat and patrol duties shall be performed by the state police,

composed of police officers of the different nationalities, in addition to the local police.

Relations between the local and state police shall be based on mutual cooperation and they shall keep each other abreast of all issues of importance for the performance of their duties.

8. Members of the local police may use, as means of constraint, a pistol, a rubber baton, handcuffs and cars, as well as the appropriate communications equipment.

The local police shall be trained in appropriate police schools and its members shall be trained in particular to perform police duties in areas with a mixed population. Any municipality where local police have been established shall set up a commission to oversee their work. This commission shall be composed of the representatives of all the national communities living in the municipality.

Article VI: Human rights and the fundamental freedoms

1. The organs in Kosmet shall ensure that internationally recognized human rights and fundamental freedoms are respected in Kosmet.

2. The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall directly apply in Kosmet. Other internationally recognised instruments of human rights, which the Assembly of Kosmet includes in its regulations shall also be applied. These rights and freedoms shall override all other laws.

3. All courts, institutions, government institutions, and other public institutions of Kosmet or those operating in relation to Kosmet shall respect these human rights and fundamental freedoms.

Article VII: National Communities

1. The national communities and their members shall have additional rights as set forth below in order to preserve and express their national, cultural, religious, and linguistic identities in conformity with international standards and the Helsinki Final Act. Such rights shall be exercised in accordance with human rights and fundamental freedoms.

2. Each national community may democratically choose the institutions to administer its affairs in Kosmet.

3. The additional rights of the national communities are as follows:

(a) The preservation and protection of their national, cultural, religious and linguistic identity, including by means of:

- * inscribing the local names of towns and villages, of squares and streets, and of other topographic names in the language and script of the national community, in addition to signs in Albanian and Serbian, consistent with decisions about style passed by the municipal institutions;
- * providing information in the language and script of the national community;
- * providing means for education and establishing educational institutions, in particular for schooling in their own language and script and in national culture and history, for which the relevant authorities shall provide financial assistance. The curricula shall reflect a spirit of tolerance between national communities and respect for the rights of the members of all national communities in accordance with international standards;
- * enjoying unhindered contacts with representatives of their respective national communities, within the Federal Republic of Yugoslavia and abroad;

* using and displaying national symbols, including the symbols of the Federal Republic of Yugoslavia and the Republic of Serbia

* protecting national traditions in family law if the community so decides, arranging regulations in the field of inheritance, family and marital relations, custodianship, and adoption;

* protecting sites of religious, historical, or cultural importance to the national community, in cooperation with other authorities;

* operating religious institutions in cooperation with the heads of these institutions;

* participating in regional and international non-governmental organizations in accordance with the procedures of these organizations;

* be guaranteed access to, and representation in the public media, including separate programs in the relevant languages, under the direction of those nominated by the respective national community on a fair and equitable basis; and

* to finance their activities by collecting contributions the national communities may decide to levy on members of their own communities;

* the right to enjoy unhindered contacts with members of their respective national communities elsewhere in the Federal Republic of Yugoslavia and abroad;

* equal access to employment in public services at all levels;

* the right to use their languages and script.

4. Each national community and, where appropriate, their members individually may exercise these additional rights through federal institutions and institutions of the republic, in accordance with the procedures of those institutions and without prejudice to the ability of the institutions of Kosovo to carry out their responsibilities.

5. Every person shall have the right to choose freely to be treated or not to be treated as belonging to a national community, and no disadvantage shall result from that choice or from exercising the rights connected to that choice.

Article VIII: Municipalities

1. Municipalities shall be the units of local self-government.

The Assembly of Kosmet may change the present borders of the existing municipalities only with their prior consent.

2. Each municipality shall have an Assembly, Executive Committee and administrative authorities. The organs of the municipality shall be set up in accordance with the principles based on which the organs of Kosmet are set up.

3. Through its organs, and in accordance with the legally-binding regulation of the Assembly of Kosmet, each municipality shall be responsible for the following:

- making development plans, urban planning, adopting the budget and annual reports;
 - regulating and ensuring and development of communal activities and engagement in them;
 - regulating and ensuring the use of town development sites and business space;
 - taking care of construction, the maintenance and use of local roads and streets and other public facilities of importance to the municipality;
 - establishing organs, organisations and services for the needs of the municipality and regulating their work.
- The Assembly of Kosmet may devolve some of the duties from its competencies to a certain municipality and transfer the funds to it for that work.

Article IX: Representation

1. The citizens in Kosmet shall be represented by at least 10 deputies in the Chamber of Citizens of the Federal Assembly and by at least 20 deputies in the National Assembly of the Republic of Serbia.
2. At least one citizen of Kosmet shall be elected to the Federal Government and to the Government of the Republic of Serbia.
3. At least one citizen of Kosmet shall be appointed as judge to the Federal Court and three judges to the Supreme Court of Serbia.

Article X: Changes and Amendments

The Assembly may, by a majority of two-thirds of its members which majority must include a majority of the Members elected from each national community, adopt amendments to this Basic Act.

Article XI: Entry Into Force

This Basic Act shall enter into force when this Agreement enters into force.

Chapter 3 Conducting and Supervising the Elections Census and the first parliamentary elections

1. The competent state authorities shall organise, together with the OSCE an objective and free census of the population in Kosmet as soon as possible. The census shall include information on places of residence, citizenship, nationality and other data relevant to the conduct of elections.

2. Free and fair elections for the organs of Kosmet shall be held within nine months of the signing of the Agreement on Kosmet, under the supervision of the OSCE.
3. The rules governing the first elections for the Assembly of Kosmet, and for the municipal assemblies in Kosmet shall be determined by the representatives of all the national communities and all political parties in Kosmet, by harmonising candidates on the basis of the electoral standards of the OSCE.

Chapter 4

Economic issues

Article I

1. The economy of Kosmet shall function in accordance with free market principles.
2. The authorities established to levy and collect taxes and other charges are set forth in the Agreement. Unless explicitly regulated otherwise, all the organs have the right to keep all the revenues from their own taxes or other levies in accordance with this Agreement.
3. Certain revenues from taxes and other levies in Kosmet shall belong to the municipalities, taking into account the need for an equalisation of revenues between the municipalities based on objective criteria. For this purpose the Assembly of Kosmet shall adopt the appropriate non-discriminatory regulations. The municipalities may also levy local taxes in accordance with this Agreement.

4. If expressly required by an international donor or lender, international contracts for reconstruction projects shall be concluded by the organs of the Federal Republic of Yugoslavia, which shall establish appropriate mechanisms to make such funds available to the organs of Kosmet. Unless precluded by the provisions of the contract, all those projects that are exclusively linked to the reconstruction of Kosmet shall be managed and implemented by the appropriate organs in Kosmet.

Chapter 6 /as printed/

Ombudsman

Article I: General Part

1. There shall be an Ombudsman, who shall monitor the realisation of the rights of the members of the national communities and the protection of human rights and fundamental freedoms in Kosmet. The Ombudsman shall have unimpeded access to any person or place and shall have the right to appear and intervene before any domestic, federal, or (consistent with the rules of such bodies) international authority upon his or her request. No person, institution, or entity of the Signatories may interfere with the functions of the Ombudsman.
2. The Ombudsman shall be an eminent person of high moral standing who possesses a demonstrated commitment to human rights and the rights of members of the national communities. He or she shall be nominated by the President of the Assembly of Kosmet and

shall be elected by the Assembly.

3. The Ombudsman shall be independently responsible for choosing his or her staff. He or she shall have six deputies. One deputy shall be elected from each national community. The salaries and expenses of the Ombudsman and his or her staff shall be determined and paid by the Kosovo Assembly. The salaries and expenses shall be fully adequate to implement the Ombudsman's mandate.
4. The Ombudsman and his or her deputies shall have immunity equal to the immunity of the members of the Assembly.

Article II: Jurisdiction

1. The Ombudsman shall consider:
 - (a) alleged or apparent violations of human rights and fundamental freedoms in Kosmet, as provided in the Constitutions of the Federal Republic of Yugoslavia and the Republic of Serbia, and the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto; and
 - (b) alleged or apparent violations of the rights of members of the national communities specified in this Agreement.
2. All persons in Kosmet shall have the right to submit complaints to the Ombudsman. The Signatories agree not to take any measures to punish persons who intend to submit or who have submitted such allegations, or in any other way to deter the exercise of this right.

Article III: Powers and Duties

1. The Ombudsman shall investigate alleged violations falling within the jurisdiction set forth in Article II.1. He or she may act either on his or her own initiative or in response to a complaint presented by any party or person, non-governmental organisation, or group of individuals claiming to be the victim of a violation or acting on behalf of alleged victims who are deceased or missing. The work of the Ombudsman shall be free of charge to the person concerned.

2. The Ombudsman shall have full, unimpeded, and immediate access to any person, place, or information upon his or her request.

(a) The Ombudsman shall have access to and may examine all official documents, and he or she can require any person, including officials of Kosmet, to cooperate by providing relevant information, documents, and files.

(b) The Ombudsman may attend administrative hearings and meetings of other Kosmet institutions in order to gather information.

(c) The Ombudsman may examine facilities and places where persons deprived of their liberty are detained, work, or are otherwise located.

(d) The Ombudsman and his or her staff shall maintain the confidentiality of all confidential information obtained by them, unless the Ombudsman determines that such information is evidence of a violation of rights falling within his or her jurisdiction, in which case that information may be revealed in public reports or in appropriate legal proceedings.

(e) The Signatories undertake to ensure cooperation with the Ombudsman's investigations.

3. The Ombudsman shall publish his or her findings and conclusions in the form of a report published promptly after concluding an investigation.

Translation

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Chapter 8 Changes and Amendments, Overall Assessment and Final Provisions

Article I: Changes and Amendments and Overall Assessment

1. Any changes or amendments to this Agreement shall be adopted by the agreement of all the Signatories, unless otherwise envisaged by Article X of Chapter 1.
2. Each Signatory may propose amendments at any time and shall consider and consult with the other Signatories with regard to the proposed changes and amendments.
3. After three years, the signatories shall comprehensively review this Agreement with a view to improving its implementation. They shall consider the proposals of any signatory for additional measures, whose adoption shall require the consent of all Signatories.

Article II: Final Provisions

1. This Agreement is signed in the Albanian, English, Romany, Serbian and Turkish language. All versions are equally authentic.
2. This Agreement shall enter into forces after each Signatory informs the other that it had completed its internal procedure.

For the Republic of Serbia
Prof. Ratko MARKOVIĆ
Deputy Prime Minister of the
Government of the Republic of Serbia
and Head of the Delegation of the
Republic of Serbia
/signed/

For the Federal Republic of
Yugoslavia
Prof. Vladan KUTLEŠIĆ
Deputy Prime Minister of the Federal
Government
/signed/

For Kosovo and Metohija
For the Albanian national community
Sokolj ĆUSE /Sokol QUSE/
Democratic Reform Party of Albanians
/a signature/
Faik JAŠARI /Faik JASHARI/
Kosovo Democratic Initiative
/a signature/
For the Serbian and Montenegrin
national community
Vojislav ŽIVKOVIĆ
/a signature/
For the Turkish national community
Guljbehar ŠABOVIĆ
/a signature/
For the *Goranci* national community
Ibro VAIT
/a signature/
For the Muslim national community
Refik SENADOVIĆ
/a signature/
For the Romany national community
Ljuan KOKA
/a signature/
For the Egyptian national community
Ćerim ABAZI
/a signature/

DEF13709/sz

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ANNEX 26**Collegia of the General Staff/Staff of the Supreme Command 1998-1999**

Ex. No.	Main Date	Date Admitted
3D01074	26-Sep-1997	14-Sep-2007
3D01075	12-Dec-1997	26-Oct-2007
3D01076	15-Dec-1997	25-Oct-2007
3D00657	10-Apr-1998	24-Sep-2007
3D00658	17-Apr-1998	24-Sep-2007
3D00659	4-May-1998	24-Sep-2007
3D00666	8-Jun-1998	20-Sep-2007
P00923	22-Jun-1998	18-Oct-2007
P00927	29-Jun-1998	7-Feb-2007
P00922	20-Jul-1998	23-Mar-2007
3D00645	23-Oct-1998	4-Sep-2007
3D00646	26-Oct-1998	4-Sep-2007
P00926	28-Oct-1998	10-Oct-2006
2D00389	30-Oct-1998	28-Sep-2007
3D00663	3-Nov-1998	31-Aug-2007
3D00664	6-Nov-1998	14-Sep-2007
P00925	27-Nov-1998	23-Mar-2007
3D00557	3-Dec-1998	21-Mar-2007
3D00484	10-Dec-1998	23-Jan-2007
3D00485	14-Dec-1998	23-Jan-2007
3D00494	17-Dec-1998	23-Jan-2007
P00924	24-Dec-1998	22-Mar-2007
P00928	30-Dec-1998	22-Jan-2007
3D00558	6-Jan-1999	25-Apr-2007
P00936	14-Jan-1999	22-Mar-2007
P00939	21-Jan-1999	22-Jan-2007
3D00559	28-Jan-1999	24-Apr-2007
P00930	1-Feb-1999	22-Mar-2007

P00931	2-Feb-1999	22-Jan-2007
P00932	4-Feb-1999	22-Jan-2007
P00934	11-Feb-1999	22-Mar-2007
P00937	18-Feb-1999	22-Mar-2007
P00940	21-Feb-1999	7-Feb-2007
P00941	25-Feb-1999	22-Jan-2007
P00933	4-Mar-1999	23-Mar-2007
P00935	11-Mar-1999	22-Jan-2007
P00938	18-Mar-1999	22-Jan-2007
P00929	9-Apr-1999	22-Jan-2007

ANNEX 27

Daily Briefings 1999

EX. NO.	DATE	ADM. DATE
3D0578	24-Mar-1999	10 Mar 08
3D0579	25-Mar-1999	10 Mar 08
3D0580	26-Mar-1999	20 Sep 07
3D0581	28-Mar-1999	20 Sep 07
3D0582	29-Mar-1999	26 Sep 07
3D0583	30-Mar-1999	10 Mar 08
3D0584	31-Mar-1999	7 Sep 07
3D0719	1-Apr-1999	10 Mar 08
3D0721	3-Apr-1999	7 Sep 07
3D0722	4-Apr-1999	10 Mar 08
3D0723	5-Apr-1999	27 Sep 07
3D0724	6-Apr-1999	10 Mar 08
3D0639	7-Apr-1999	26 Oct 07
3D0725	8-Apr-1999	10 Mar 08
P00929	9-Apr-1999	22 Jan 07
3D0728	11-Apr-1999	11 Sep 07
3D0729	12-Apr-1999	7 Sep 07
3D0730	13-Apr-1999	10 Mar 08
3D0585	14-Apr-1999	10 Mar 08
3D0586	15-Apr-1999	7 Sep 07
3D0587	16-Apr-1999	7 Sep 07
3D0588	17-Apr-1999	10 Mar 08
3D0589	18-Apr-1999	10 Sep 07
3D0590	19-Apr-1999	10 Mar 08
3D0591	21-Apr-1999	10 Mar 08
3D0592	22-Apr-1999	7 Sep 07
3D0593	23-Apr-1999	7 Sep 07
3D0594	24-Apr-1999	10 Mar 08
3D0595	25-Apr-1999	10 Mar 08
3D0596	26-Apr-1999	10 Mar 08
3D0597	27-Apr-1999	10 Mar 08
3D0598	28-Apr-1999	10 Mar 08
3D0599	29-Apr-1999	10 Mar 08

3D0600	30-Apr-1999	3 Oct 07
3D0601	1-May-1999	10 Mar 08
3D0602	2-May-1999	10 Mar 08
3D0603	3-May-1999	10 Mar 08
3D0604	4-May-1999	10 Mar 08
3D0605	5-May-1999	10 Mar 08
3D0606	6-May-1999	7 Sep 07
3D0607	7-May-1999	7 Sep 07
3D0608	8-May-1999	10 Mar 08
3D0609	9-May-1999	10 Mar 08
3D0610	10-May-1999	10 Mar 08
3D0611	11-May-1999	10 Mar 08
3D0612	12-May-1999	10 Mar 08
3D0613	13-May-1999	10 Mar 08
3D0614	14-May-1999	10 Mar 08
3D0615	15-May-1999	10 Mar 08
3D0616	16-May-1999	10 Mar 08
3D0617	17-May-1999	10 Mar 08
3D0618	18-May-1999	10 Mar 08
3D0619	19-May-1999	10 Mar 08
3D0620	20-May-1999	10 Mar 08
3D0621	21-May-1999	10 Mar 08
3D0622	22-May-1999	10 Mar 08
3D0623	23-May-1999	10 Mar 08
3D0624	24-May-1999	10 Mar 08
3D0625	25-May-1999	10 Mar 08
3D0626	26-May-1999	10 Mar 08
3D0627	27-May-1999	10 Mar 08
3D0628	28-May-1999	10 Mar 08
3D0629	29-May-1999	10 Mar 08
3D0630	30-May-1999	10 Mar 08
3D0631	31-May-1999	10 Mar 08
3D0632	01-Jun-1999	10 Mar 08
3D0633	2-Jun-1999	25 Sep 07

3D0634	3-Jun-1999	10 Mar 08
3D0635	4-Jun-1999	10 Mar 08
3D0636	5-Jun-1999	10 Mar 08
3D0637	6-Jun-1999	10 Mar 08
3D0638	7-Jun-1999	10 Mar 08
3D0479	8-Jun-1999	22 Jan 07

ANNEX 28**Supreme Command Staff – Intelligence Department Briefings**

EX. NO.	DATE	ADM. DATE
3D00894	26 Mar 99	3 Oct 07
3D00898	28 Mar 99	3 Oct 07
3D00783	29 Mar 99	3 Oct 07
3D00902	30 Mar 99	3 Oct 07
3D00906	1 Apr 99	3 Oct 07
3D00911	3 Apr 99	3 Oct 07
3D00782	3 Apr 99	3 Oct 07
3D00913	4 Apr 99	3 Oct 07
3D00781	5 Apr 99	3 Oct 07
3D00918	7 Apr 99	3 Oct 07
3D00779	13 Apr 99	3 Oct 07
3D00778	14 Apr 99	28 Sep 07
3D00928	15 Apr 99	11 Sep 07
3D00934	21 Apr 99	3 Oct 07
3D00938	25 Apr 99	3 Oct 07
3D00940	27 Apr 99	3 Oct 07
3D00772	4 May 99	3 Oct 07
3D00955	12 May 99	3 Oct 07
3D00769	12 May 99	3 Oct 07
3D01055	13 May 99	7 Sep 07
3D00758	19 May 99	26 Oct 07
3D00968	25 May 99	26 Oct 07
3D00969	26 May 99	3 Oct 07
3D00762	29 May 99	3 Oct 07
3D00760	31 May 99	3 Oct 07
3D00978	4 Jun 99	3 Oct 07

ANNEX 29

**1D32 – Order of Speakers – First Session of the First Regular Sitting of the National
Assembly of the Republic of Serbia, 23 March 1999**

In order, the speakers were:

1. Ratko Marković, Deputy Prime Minister, Head of state delegation,
2. Gorica Gajević, Chairwoman of the Club of Deputies of the Socialist Party of Serbia,
3. Stevo Dragišić, Chairman of the Club of Deputies of the Serbian Radical Party,
4. Milan Rodić, Chairman of the Club of Deputies of the Yugoslav Left,
5. Žarko Jakanović, Chairman of the Club of Deputies of the New Democracy,
6. Milan Miković, from the Club of Deputies of the Serbian Renewal Movement,
7. Jožef Kaša, Chairman of the Club of Deputies of the Vojvodina Hungarians,
8. Gulbehar Šabović, member of the state delegation and member of the Temporary Executive Counsel of KiM,
9. Dragan Veselinov, People's Deputy,
10. Koka Ljuan, member of the state delegation (1998 and 1999),
11. Vojislav Živković, People's Deputy,
- 12. Milan Milutinović, President of the Republic of Serbia,**
13. Dragoljub Stamenković, vice president of the National Assembly,
14. Leposava Milićević, People's Deputy,
15. Radovan Pankov, People's Deputy,
16. Milorad Mirčić, People's Deputy,
17. Ivan Kovačević, People's Deputy,
18. Dr. Živorad Đorđević, People's Deputy,
19. Sokol Ćuse, representative of the Democratic Reform Party of Albanians and member of the state delegation,
20. Karolj Kašas, People's Deputy and member of the state delegation,
21. Vojislav Šešelj, deputy prime minister of the republican government,
22. Milena Andrić, representative of the coalition of Democratic Alternative, Peasant's Party and the United Pensioner's Party,
23. Dragan Todorović,
24. Zoran Anđelković, People's Deputy,
25. Vladimir Štambuk, People's Deputy,
26. Marijan Ristićević, People's Deputy,
27. Milovan Bojić, People's Deputy,