



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

607

Strasbourg, 18 March 2002

Avis no. 189/2002

Restricted
CDL (2002) 45
Eng. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**PROCEEDING POINTS
FOR THE RESTRUCTURING OF RELATIONS
BETWEEN SERBIA AND MONTENEGRO**

Proceeding Points for the Restructuring of Relations Between Serbia and Montenegro

Agreement on Principles. The Agreement on Principles of relations between Serbia and Montenegro within the state union shall be signed by participants in the talks: the President of the Federal Republic of Yugoslavia, the Deputy Federal Prime Minister, the President of the Republic of Montenegro, the Serbian and Montenegrin Premiers and, as a witness, the EU High Representative for Common Foreign and Security Policy. The document shall be submitted for debate to the Parliaments of member states and the Federal Parliament.

Constitutional Charter. On the basis of opinions put forward in parliamentary debates, that is, parliamentary conclusions, a constitutional commission, whose members shall be delegated by the Parliaments of the Federal Republic of Yugoslavia (FRY), Serbia and Montenegro, shall draft the Constitutional Charter, the highest legal act of the state union of Serbia and Montenegro. The text of this act shall be adopted by the republican parliaments first, and then submitted to the Federal Parliament. Such procedure would reaffirm the elements of Serbian and Montenegrin statehood, stemming from the present-day factual situation and the historic rights of the two member states.

Provision on Reconsideration. Upon the expiration of a three-year period, the member states shall be entitled to instituting proceedings for a change of the state status, that is, withdrawal from the state union. If Montenegro withdraws from the state union, international documents related to the FRY, the U.N. Security Council Resolution 1244 in particular, shall relate to and fully apply on Serbia as its successor.

A member state that uses this right, shall not inherit the right to international and legal status, and all debatable issues shall be regulated specifically between the state successor and the newly established state. If in a referendum process both member states declare themselves in favour of a change of the state status (independence), all debatable issues shall be resolved in succession proceedings, as was done in the case of former Yugoslavia.

The Laws on Referendum shall be adopted by the member states, taking full account of internationally recognised democratic standards.

The name of the state: Serbia and Montenegro.

Institutions of Serbia and Montenegro: the Parliament, the President, the Council of Ministers and the Court.

Parliament: A unicameral parliament providing certain positive discrimination for Montenegrin representatives. The Laws on the Election of Representatives to the Parliament of Serbia and Montenegro shall be adopted by the member states, in compliance with the principles defined by the Constitutional Charter. Mechanisms to protect against outvoting of member states shall be provided for.

President of Serbia and Montenegro: The President, elected by the Parliament of Serbia and Montenegro, shall propose the composition of the Council of Ministers and direct its work.

Council of Ministers: The Council of Ministers shall be composed of five departments: foreign affairs, defence, international economic relations, internal economic relations and protection of human and minority rights. The competences of the ministries shall be defined in detail subsequently.

The Court of Serbia and Montenegro: The Court shall have constitutional-court and administrative court functions, and shall deal with harmonisation of court practice. The administrative court function shall be exercised in relation with administrative acts of the ministries of the Council of Ministers. The Court shall take legal views and give opinions related to the harmonisation of court practice. The Court is not an appellate court and has an equal number of judges from the member states.

The Army: The Army of Serbia and Montenegro shall be under the command of the Supreme Defence Council, composed of three presidents. The Supreme Defence Council shall make decisions by consensus. Conscripts shall serve the army on the territory of their respective member states, with the possibility of serving on the territory of the other member state, if they wish so.

Elections and Appointments: Upon the promulgation of the Constitutional Charter under the specified procedure, elections shall take place, the Parliament of Serbia and Montenegro shall be constituted, the President of Serbia and Montenegro shall be elected, as well as members of the Council of Ministers and judges of the Court of Serbia and Montenegro. It shall also be possible to provide for rotating during a term in office. (In the Ministry of Foreign Affairs and the Ministry of Defence, the minister and his/her deputy from different member states shall take turns when one half of the term in office expires).

In representing the member states in international organisations (UN, OSCE, EU and the Council of Europe), parity shall be provided for through rotation,

whereas special models for representation shall be defined for international financial organisations. In diplomatic and consular representative offices of Serbia and Montenegro abroad, a special agreement shall be made on proportionate representation of the member states.

The Constitutional Charter shall be submitted to the Parliaments for deliberation by the end of June 2002 at the latest.

Dislocation of federal institutions. Some federal institutions can be headquartered in Podgorica.

Constitutional reconstruction of the member states. Within the activities aimed at the promulgation of the Constitutional Charter of Serbia and Montenegro, the member states shall amend their respective constitutions in compliance with the Constitutional Charter of Serbia and Montenegro or promulgate new constitutions by the end of 2002 at the latest.

Economic sphere. The level of economic reforms reached in Serbia and Montenegro shall be a proceeding point for regulating mutual economic relations.

The member states shall be responsible for unhindered operation of a common market, including the free flow of people, goods, services and capital.

Harmonisation of the economic systems of the member states with the EU economic system shall overcome the existing differences, primarily in the spheres of trade and customs policies.

In both regards, economic reforms that have already been carried out in the member states shall be taken into full account, while solutions that would provide for the quickest integration into the European Union shall be accepted. Transitional solutions in harmonising trade and customs policies should take into account the interests of the member states.

The European Union shall assist in the accomplishment of these objectives and monitor the process on a regular basis.

The modalities for the achievement of these objectives shall be elaborated in parallel with the Constitutional Charter.

If one of the member states believes that the other does not live up with commitments under this agreement concerning the operation of a common market and the harmonisation of trade and customs policies, it shall reserve the

right to raise the matter with the EU in the context of the Stabilisation and Association Process with the view to the adoption of appropriate measures.

The EU shall guarantee that, if other conditions and criteria for the Stabilisation and Association Process are fulfilled, the agreed principles of constitutional organisation shall not be an obstacle to a rapid conclusion of the Agreement on Association and Stabilisation.

President of the Federal Republic Yugoslavia
Vojislav Kostunica



Deputy Federal Prime Minister
Miroljub Labus



President of the Republic of Montenegro
Milo Djukanovic



Premier of the Republic of Serbia
Zoran Djindjic

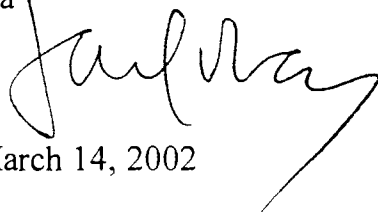


Premier of the Republic of Montenegro
Filip Vujanovic



Witnessed by

EU High Representative for Foreign and Security Policy
Javier Solana



Belgrade, March 14, 2002