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Yugoslavia

On September 25, the UN Security Council adopted Resolution No. 1199, requiring decisive actions by Belgrade to alleviate human suffering in Kosovo and to begin an immediate dialogue with the Kosovars. The resolution is based on Chapter 7 of the UN Charter that provides for "action by air, sea, or land forces" to restore "international peace and security" (Art. 41). In the days and weeks following the UN Resolution, the situation in Serbia was tense, and many guessed that air strikes were imminent. Adding to the surrealism, a few restaurants invited Belgrade residents to view the impending firestorm while dining *al fresco*.

But even as jets were fueling at Aviano air base, President Slobodan Milosevic (Socialist Party of Serbia [SPS]) drew the curtain on this act of the Belgrade-Washington spectacle by promising, on October 5, to withdraw troops from Kosovo. The Supreme Defense Council emphasized the "unanimity" of all the Yugoslav leaders in their "choice of peace," not to mention their pronouncement that "the country will defend itself if attacked." The council includes the federal president, the presidents of Serbia and Montenegro, the federal defense minister, and the chief of the general staff.

The Kosovo crisis has altered the Yugoslav constitutional framework in substantial and unexpected ways. An extraordinary session of the federal parliament (*Savezna Skupstina*), on October 5, revealed that Belgrade had in effect initiated a civil war with the Kosovar Albanians. At this session, the federal prime minister, Momir Bulatovic, (Socialist People's Party [SPP]), emphasized that Yugoslavia was under an immediate threat of war and demanded that all state institutions adjust their actions accordingly. Since an "immediate threat of war" is a constitutional category, basically equivalent to a state of emergency (Art. 78), many deputies from the ruling coalition, as well as many observers, rushed to the conclusion that a state of emergency was about to be declared. But after some hours of hesitation and, apparently, "consultations," Bulatovic explained that his remarks had been only a statement of fact and not a formal proposal to establish a state of emergency. The prime minister claimed, moreover, that the Yugoslav army was about to complete its withdrawal from Kosovo. With this statement, he mocked what until then had been one of the regime's principal claims: that Kosovo is an "internal matter of Serbia," and that, consequently, only Serbian police—and not the Yugoslav army—have been engaged in combat. In other words, Bulatovic broadcast officially that Serbia *was* using the federal army

against its own citizens. In his address, he stated that all military action in Kosovo had ceased, as of September 28, but also that all military units were on full alert. (At that date, under increasing pressure, Milosevic had indeed begun to withdraw troops, although the withdrawal was still not complete.) At this same session, the parliament also passed the Law on Financing Extraordinary Costs of Defense of the Country, which levied a "war tax," ranging from 0.6 to 4 percent, on all goods in order to supplement the military budget.

Following the October 5 meeting of the Supreme Defense Council, and amid renewed rumors that Montenegro's reformist government had capitulated to Milosevic, Montenegrin President Milo Djukanovic (the Democratic Party of Socialists [DPS]) hurriedly convened a press conference to demand that "irresponsible behavior and false patriotism" be replaced with quick, clear, and transparent political activities.

In a similar vein, the Constitutional Court of Montenegro ruled that no decision of the extraordinary session of the federal parliament convened in Belgrade, on October 5, would be recognized as valid in Montenegro. The Montenegrin Constitutional Court does not have the authority to decide on the constitutionality of federal laws. The Court nevertheless entered the battle alongside Djukanovic in his ongoing struggle with Milosevic.

The governmental form of the Federal Republic of Yugoslavia can be characterized as pure parliamentarism, granting jurisdiction in matters of foreign policy exclusively to the federal government. Formally, the president of the federal republic, Milosevic, has almost entirely ceremonial functions. Rules on paper, however, proved of scant relevance when the crisis reached its peak. International mediators concentrated their pressure tactics on Milosevic, guided by the realistic perception that he alone controls the instrumentalities of power in Serbia and Yugoslavia. Richard Holbrooke arrived in Belgrade on October 5, and in a series of meetings with Milosevic and the Kosovo Liberation Army, he attempted to negotiate a last-minute settlement. Last spring, Milosevic rejected international mediation in Kosovo. And in April, he initiated a referendum, asking citizens: "Do you want foreign representatives included in resolving the Kosovo question: yes or no." In the referendum, which was put to the Serbian electorate, and not to all Yugoslavs, 73 percent of those participating allegedly answered "no." (See Yugoslavia Update, *EECR*, Vol. 7, No. 2, Spring 1998.) But in the talks on October 5, Milosevic apparently abandoned his previous claim that the Kosovo crisis was purely an internal matter, in return for Holbrooke's tacitly accepting that Milosevic was in

charge of Serbia, contrary to the Constitution. (That this understanding has consequences for Serbia will become apparent below.)

Holbrooke's efforts proved a success in the short run. On October 13, the US envoy announced that he had secured an agreement with Milosevic. Not coincidentally, on the same day, Brussels announced that NATO would act "quickly and efficiently" if asked to restore peace in Kosovo, and a detailed operational plan for such an action was drawn up by NATO commanders. Milosevic agreed to accept a 2,000-strong observer mission from the OSCE in Kosovo. The observers were charged with ensuring Yugoslavia's compliance with UN Resolution 1199. Milosevic also assented to noncombat flights by military aircraft over Kosovo as part of the monitoring mission. He has agreed, further, that the Yugoslav government will unconditionally grant a degree of autonomy to Kosovo. If an agreement between the two sides is reached, it is expected that the OSCE will subsequently oversee local elections in Kosovo.

The agreement was signed, on October 16, by OSCE Chairman Bronislaw Geremek and Yugoslav Foreign Minister Zivadin Jovanovic. The remainder of October was marked by NATO efforts to force the Yugoslav government to comply with the terms of the agreement, especially with demands for the withdrawal of police and army troops from Kosovo. On October 25, the UN Security Council adopted Resolution No. 1203, which stressed that Yugoslavia must unconditionally comply with the Milosevic-Holbrooke agreement and called on all sides to begin negotiations concerning the general framework of the political settlement. On October 27, after talks with the NATO commander for Europe, General Wesley Clark, Milosevic agreed to withdraw his troops. The next day, the NATO Council released a statement that significant progress had been made in this regard, but that the activation order for possible NATO attacks on Serbian military positions would remain in force as a warning measure. On the political front, however, no headway toward Albanian-Serbian talks has been made. The American mediator for Kosovo, the US ambassador to Macedonia, Christopher Hill, has prepared a draft version of the agreement, but the two sides are said to be still far away from a compromise.

Although ostensibly not public, Hill's plan was printed in the Kosovo Albanian-language newspaper *KOHA Ditore*, whose editor is one of the ethnic Albanian negotiators working with Hill. The plan fails to define formally the political and constitutional status of Kosovo and refers to the region as a "territory," without defining its legal status within Serbia or

Yugoslavia. Nevertheless, Kosovo would have ten representatives in the federal parliament and would be represented in the Serbian government, as well as having judges on the supreme courts of Serbia and Yugoslavia. The territory would have autonomous government institutions (parliament, an executive power), a "representative" (the de facto president), and an ombudsman responsible for the implementation of the agreement, who would be nominated by the Yugoslav government from a list of candidates supplied by the European Court for Human Rights. Kosovo would have its own court system with judges confirmed by parliament. Each community would have its own local police force, reflecting the local ethnic structures; these would be solely responsible for public order. On the other hand, the Serbian and Yugoslav police would have jurisdiction over border security. Kosovo would also have a separate tax system. The agreement is to be valid for three years, after which time the parties would "substantially review the agreement in order to improve its implementation." Finally, the plan calls for elections without further specification. (For an analysis of the plan, see the article in this issue by Robert M. Hayden.)



Other political developments in Serbia drew much less international attention. In the shadow of the Kosovo crisis, the regime has been engaged in what may be characterized as a forcible effort to eliminate the country's remaining islands of democratic alternatives. Moreover, given the surprisingly open and brutal attacks on the university and the independent media, one could conclude that the Milosevic regime does not even care anymore about preserving a democratic facade. In this context, the question might be asked whether SPS is really in control of the situation, and why they would conduct such a protracted confrontation with the media and universities, given that the ruling coalition's power over the country is fairly consolidated. As things stand, the country is governed by an SPS-United Yugoslav Left (UYL is led by Milosevic's wife, Mirjana Markovic)-Serbian Radical Party (SRP, led by Vojislav Seselj) coalition, although Milosevic and his SPS have previously dominated decision making. UYL is said to be ascendant within the coalition and holds many prominent positions in the branches of economy, culture, and higher education. Both anti- and pro-UYL wings have emerged within SPS. Milosevic has not come out in favor of either wing. The ruling coalition now seems to be a coalition between UYL and SRP, while SPS has been surprisingly silent.

One possible symptom of a struggle within the coalition is the recent removal from office of the

extremely powerful chief of the State Security (secret police), Jovica Stanisic—for years, Milosevic's "man for extraordinary tasks." No official reason was given for Stanisic's dismissal, on October 27. Stanisic had been under fire from SRP and UYL for the last year, and his replacement is said to be close to the latter. Speculations are that UYL wanted access to secret police data on its political opponents, which Stanisic persistently refused to grant. After Milosevic's split with Seselj in 1993, Stanisic allegedly undermined SRP from within by creating opponents to Seselj within SRP, who then left to form another party, taking several of Seselj's parliamentary seats with them. Both parties therefore had an incentive to oust Stanisic.

In the meantime, the university and independent media have been exposed to a wave of state terror. The University Act, enacted in June 1998, effectively abolished the autonomy of the university. (See Yugoslavia Update, *EECR*, Vol. 7, No. 3, Summer 1998.) With the beginning of the new academic year, the regime had to face the question of how to treat a significant number of university teachers who had refused to sign new work contracts. An estimated 200 professors refused to put their names to these new contracts, and approximately 10 were fired. (These contracts are strangely unilateral documents, signed only by the university teachers, who became government employees upon accepting the contractual terms.) The government's policy consists of two strategies: some teachers who refused to sign the contract were or will be fired, while others are forbidden to teach at the university, though they may be employed by the university for other occupations, such as librarian. Some of the new deans (all new deans are now directly appointed by the government) have hired private "protection agencies," whose employees have used physical force to prevent professors from entering classrooms. Lectures by the "suspended" professors have been held on the steps of university buildings, and the Student Union announced that it will conduct a general university strike. The sacked professors from Belgrade's famous College of Engineering are offering courses for students on side streets.

As for the various media, the Serbian Ministry of Information (on October 5, the same day that Holbrooke arrived in Belgrade and the federal parliament held its emergency session) issued a warning to all the media that were rebroadcasting international news—news produced by foreign services in Serbian—to stop airing programs produced by "Western powers' services for the propaganda and psychological war." The statement emphasized that the government would not tolerate any "subversive activity" undermining the

country's capacity to defend itself, and that, accordingly, all media continuing to air such programs would be "adequately punished." The Association of Independent Electronic Media protested, demanding, first, that the constitutional and legal basis for the ban be elaborated, and, second, that the accusations that equated airing of foreign news with high treason be explained. Protests from international media associations followed.

On October 8, the government issued the Decree on Special Measures During the Threat of NATO Military Intervention Against our Country, signed by Deputy Prime Minister Seselj. In addition to formalizing the ban on airing foreign programs, "which spread fear, panic, defeatism, or which undermine the readiness of citizens to fight for the preservation of the integrity of the Republic of Serbia and of FR Yugoslavia," the decree also states that domestic media airing the foreign programs would be punished by a temporary ban of their activity, as well as by the confiscation of their property. The decree further provides that "in their programs or articles mass media are not to spread defeatism or act contrary to the resolutions by the Federal Parliament and the People's Assembly of the Republic of Serbia" (Art. 8). When a newspaper or television or radio station violates the provisions of the decree the Ministry of Information is authorized to issue a "warning" (Art. 9), followed by an administrative decision temporarily banning its activity and confiscating its assets (Art. 10). On October 13, the police closed down three newspapers—*Danas*, *Nasa Borba*, and *Dnevni Telegraf*.

After Milosevic reached the agreement with Holbrooke, marking the end of the "immediate war threat," the government enacted a new law on public information—as a follow-up to the decree of October 8. Seselj announced that the decree's temporary measures had proven necessary for the proper functioning of democracy in Serbia, and that these measures would be stabilized in the new law. Obviously, the regime tried to take advantage of the week's dramatic political events to silence the independent media. On October 17, the government called an extraordinary meeting of parliament, for October 20, to debate the new law. Deputies received the text of the law only at the beginning of the session, which was dubbed an "urgent procedure." According to Art. 120 of the Serbian Constitution, lawmakers may call for an "urgent procedure" if they show that "exceptionally justified reasons" exist. In this instance, however, those reasons were not elaborated. In fact, the official exegesis that followed the text spoke of the "all-encompassing public debate that took place

throughout Serbia and that significantly contributed to new legal solutions in the field of public information." The government also stated that "the lack of clearly defined protection for the rights of the individual was one of the basic shortcomings of the previous law, which in practice resulted in frequent abuse of public information through ignominious attacks on the dignity and honor of citizens."

During the discussion of the draft, deputies referred to the independent media and opposition politicians as liars, the fifth column, traitors, and "NATO spies who would be happy to see Serbian children bombed." The leader of the parliamentary faction of Vuk Draskovic's Serbian Renewal Movement (SRM) demanded, in vain, a postponement of the discussion, arguing that the MPs did not have adequate time to examine the bill. During the debate, only SRM and the tiny, liberal Coalition for Vojvodina criticized the bill. With the SRM deputies walking out of parliament before the vote, the new Law on Public Information was passed by 170 votes to 5, with 4 abstentions. Following the proclamation of the law, the government withdrew its temporary decree. Seselj stated that the law "will be remembered in the history of Serbia as a good law, based on indisputable legal maxims. . . . The Voice of America will never be broadcast in Serbia again."

This law is peculiar in more than one respect. First, by openly introducing censorship, it violates Art. 46 of the Constitution, which guarantees freedom of public information. Article 4 of the law states that the "public media are obliged to inform the public truthfully, in a timely way, and completely. The publication of untruthful statements in public media is deemed to be an abuse of the freedom of public information." The law contains detailed chapters on preventing the distribution of the press, the damages that "untruthful information" can incur, and the bodies that will supervise the implementation of the law—in other words, exercise control over the media. Punitive regulations are draconian, reaching 800,000 dinars (\$200,000) for individual offenses.

All misdemeanors sanctioned by this law are treated as administrative, not criminal, offenses. This is for two reasons. First, in a judicial system notorious for its inefficiency, the law provides that the first-degree court for administrative offenses "is obliged to schedule an oral hearing within 24 hours," counting from the moment of procedures first being initiated before the court (Art. 72.2). Also the court is "obliged to end the legal proceedings within 24 days of the delivery of the summons. An appeal against a first-degree decision does not postpone the enforcement of

the decision" (Art. 72.7). With this "urgent procedure," the regime can act quickly as well as provoke fear and a sense of complete helplessness in the media. Second, classifying these offenses as administrative allows the courts to levy financial fines, which—given how high they are—enable the government to destroy the media by depriving them of their property.

To consider the misdemeanors as administrative offenses creates an additional peculiarity. Article 67 of the law defines the most serious administrative offense (in terms of the amount of the fine) as "publicizing information that calls for the forcible overthrow of the constitutional order, jeopardizing the territorial integrity and independence of the Republic of Serbia and of the FR Yugoslavia, violating guaranteed freedoms and the rights of man and the citizen, or stirs national, racial, or religious intolerance or hatred." According to federal and Serbian criminal codes, this has already been codified as a criminal offense; only now did it also become an administrative one, all for the sake of an efficient and speedy showdown with the media.

Two days after the law was passed, on October 23, the owner of the biweekly *Evropljanin* was summoned to appear before the Court for Administrative Offenses in Belgrade to answer charges that had been lodged by an obscure organization called the Patriotic Alliance of Belgrade. The alliance asserted that the newspaper violated Art. 67 of the law in an open letter it had printed to Milosevic. The proceedings were completed within 24 hours, and the court found the paper guilty of the charges, fining the owner and two editors a total of \$240,000.

The next day, October 24, the police seized the property of DT Press, the publishing house that produces *Evropljanin*; they also confiscated the next day's copies of another newspaper, *Dnevni Telegraph*, also published by DT Press. At the same time, six police cars, followed by a prison van, surrounded the building where the head of DT Press, Slavko Curuvija, lives. Some 10 to 15 officers, carrying automatic weapons, tried to enter the Curuvijas' flat in an effort to confiscate his private property. In a dramatic move, Jiri Dienstbier, the UN Special Envoy for Human Rights entered the flat demanding that the police leave. The blockade ended after four hours, and the police finally withdrew, leaving Curuvijas's property, although they did seize the private property of one of the paper's editors. The publishers of two other newspapers, banned following the government's temporary decree (*Danas* and *Nasa Borba*), soon announced that they would temporarily suspend publication.

The Association of Independent Media filed an appeal with the Constitutional Court, demanding that the Court examine the constitutionality of the new law. Nonetheless, many feel that both the university and the media were sacrificed in the Holbrooke-Milosevic bargaining. In a trade-off for obtaining a cease-fire in Kosovo, the international community—many legal commentators surmise—agreed not to engage in more than verbal protests against domestic developments in Serbia.

♦

In other developments, a bit further field, the third congress of the ruling Montenegrin DPS was held in Podgorica, on October 31. Milo Djukanovic was elected as the party's new chair. He claimed, however, that he would not be active in the party as long as he remained president of Montenegro. The party adopted two resolutions calling on all political forces to defend Yugoslavia's laws and Constitution and emphasizing the Montenegrin government's determination to carry

on with economic reforms. The resolution stated, in addition, that the isolation of the country and obstructions created by federal institutions are the principal impediments to the process. In his speech, Djukanovic stressed again that Montenegro does not recognize the existing federal institutions. He concluded, however, that democratic reform of the federation should take precedence over "premature" moves by Montenegro toward full independence.

On a different front, Deputy Prime Minister Seselj has actively promoted the eccentric idea of Yugoslavia's joining the Union of Belarus and Russia. This is a recent development. Confronted with Seselj's enthusiasm in this matter, even the Russian and Belarusian nationalists who had originally floated the idea, had to retreat somewhat. During the Yugoslav delegation's visit to the parliamentary session of the Belarus-Russia Union, the vice president of the Russian Duma stated that the idea of Yugoslavia's participating in the union was "unrealistic," and that Yugoslavia would be granted "permanent observer status."

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