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Eastern Europe After Kosovo

The End of Serbian Sovereignty

NATO Missiles and Human Rights

The Future of Balkan Democracy

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Constitution Watch

2 A country-by-country update on constitutional politics in Eastern Europe and the ex-USSR

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Ukraine for not objecting too loudly to NATO's actions in the Balkans. (Debt relief was a major topic of the G8 summit in Cologne, Germany, on June 18-20, which followed on the heels of Operation Allied Force.) Kuchma was only a passive critic of NATO's attack on Yugoslavia. He did allow the Yugoslav national airline to store a few civilian aircraft in Ukraine so the entire fleet would not be destroyed. And Ukraine was accused by the US State Department of smuggling oil to Belgrade. But Kuchma did little to insult NATO or to befriend Milosevic.



Kuchma has recently made a few small gains in reforming the Ukrainian economy. On March 9, the Constitutional Court ruled unconstitutional a parliamentary directive adopted in 1998 that temporarily banned increases in the prices of utilities and public transportation until the government paid all its wage and pension arrears. The Court ruled that the legislation was not within parliament's competence and therefore violates Arts. 85 and 92 of the Constitution, detailing those competencies. The Court argued that, according to the laws in force, prices can be regulated only by executive bodies.

The day following the ruling, the government announced a hike in electricity and gas rates, by 20 percent and 25 percent, respectively. The IMF required the government to abolish utility subsidies as a condition for releasing a \$2.2 billion loan, frozen last fall but resumed on March 26. On March 17, parliament voted 232 to 18 to reinstate the price-hike ban, this time as an amendment to the existing Law on Prices and Pricing. The amendment obliges the cabinet to seek parliamentary approval to raise prices on water, heating, and electricity supplies. It also prohibits the cabinet, once again, from seeking price hikes before all the state's wage and pension arrears have been paid. Because the rate increase was passed as an amendment to a law, rather than as a separate directive, parliament apparently felt that it was skirting the unconstitutional nature of its previous legislation. Nonetheless, President Kuchma vetoed the amendment soon after its adoption.

On April 4, the president vetoed a social security bill that would have raised the minimum pension from \$4.20 to \$14 per month, arguing that the budget did not contain the funds necessary for such an increase and that the hike would only worsen the problem of pension arrears, currently standing at \$585 million. Following parliament's failure to override the president's veto, on April 22, the Communist MPs took to the streets in protest. The Communist faction threatened to abstain from voting on any bill until the veto on the pension increase was overridden. In the past, CP has used similar threats in its legislative battles with the president.

For its part, parliament did succeed in overriding a presidential veto on another bill that provided a fourfold increase in special payments to World War II veterans.

President Kuchma also took steps to implement administrative reform. The number of ministries was cut by three (from 21 to 18), the State Committee for Oil and Gas was eliminated, and dozens of other committees were downgraded. The decision to abolish the Information Ministry was met with criticism in parliament, where deputies argued that the move was an attack on freedom of the press and an attempt by the presidential administration to monopolize the media. But Kuchma pushed forward with the administrative reform, because it was another IMF condition for handing over the \$2.2 billion loan.

Yugoslavia On June 20, after more than two months of NATO bombing, the forces of Yugoslavia

left Kosovo, and NATO secretary-general Javier Solana announced the official end of NATO's air strikes against the Federal Republic of Yugoslavia. Earlier, on June 9, NATO and the Yugoslav army had concluded an agreement on the Yugoslav army's withdrawal from Kosovo, and, the following day, the federal forces began their departure. At the same time, the UN Security Council adopted Resolution 1244, outlining the basic political and legal framework for administering Kosovo in a transitional period, the duration of which was unspecified.

Thus a 79-day campaign of intensive bombing aimed at preventing a "humanitarian catastrophe and ethnic cleansing" in Kosovo ended. In a rare television appearance, Slobodan Milosevic (Socialist Party of Serbia [SPS]) congratulated the Yugoslav public on the end of the bombing campaign, declaring that the country had been successfully defended and its territorial integrity and sovereignty preserved. He also announced a massive reconstruction campaign.

In spite of Milosevic's claims, the 11-week-long conflict with NATO devastated Yugoslavia. According to estimates from the UN High Commissioner for Refugees, approximately 750,000 Kosovar Albanians were displaced or expelled from the country. In a reversal of fortune, after the withdrawal of Yugoslav forces from the province, roughly 100,000 Serbs left their homes in Kosovo and fled to Serbia proper as well as Montenegro. Serbia's civilian population was seriously traumatized as well. Data on casualties are still highly unreliable. Yugoslav authorities treated the issue as confidential during the campaign, especially as far as military and police forces were concerned. During his television appearance, Milosevic announced that 462 federal army soldiers and 114 policemen had been killed and several hundred wounded. Civilian fatalities were

estimated at around 1,500, with several thousand wounded. But foreign and independent internal assessments place the number of fatalities at around 6,500, approximately 5,000 of whom were military and police personnel. None of these figures, however, included Kosovar Albanian casualties. KFOR has already discovered mass graves, but casualty figures for the ethnic Albanian population are far from final.

Damage to the country's infrastructure and economy is also enormous. Vital road and railway networks, including 60 bridges, were destroyed or heavily damaged. The electrical power-supply system has been seriously damaged, and many Serbian households might go without heat this winter. The telecommunications network was almost completely destroyed. Almost all major Serbian industrial facilities sustained some degree of destruction, and no oil refineries survived the bombing campaign. More than 500,000 workers lost their jobs, pushing the already high unemployment rate to almost 40 percent, according to some analysts.

The damage to the economy from NATO's bombing will cost somewhere in the vicinity of \$30 to \$100 billion. The latter figure has been advanced by the government and is probably greatly inflated. Prominent independent economists have given more-conservative and realistic estimates—\$4 billion in direct-material damage, \$2.3 billion in human-resource losses, and more than \$23 billion in lost GDP over the next few years. (Kosovo was not included in this assessment.) According to these sources, recovery could take anywhere from between 10 and 20 years, depending on the availability of foreign assistance.

Politically, Yugoslavia emerged from the bombing more isolated internationally than at any time since Milosevic came to power. Diplomatic relations with NATO's major members—the US, the UK, France, and Germany—were immediately suspended. During the air campaign, increased political pressure was applied by the international community through additional sanctions and restrictive measures. The EU and US broadened their trade and financial embargoes, and many non-EU states also joined in. As part of these new restrictions, in May, the EU banned more than 300 Serbian politicians and businessmen from entering its member countries, a measure that was subsequently accepted by another 14 European states, including Serbia's neighbors—Hungary, Romania, and Bulgaria—as well as by Cyprus, formerly identified as a safe haven in UN Security Council sanctions.

On May 27, the International Criminal Tribunal for the Former Yugoslavia, in The Hague, indicted President Milosevic and four of his closest associates—Serbian president Milan Milutinovic, Deputy Federal Prime Minister Nikola Sainovic, chief of the army

general staff Dragoljub Ojdanic, and Serbian minister of interior Vlatko Stojilkovic—for crimes against humanity and war crimes committed in Kosovo in 1999. The indictments added an entirely new dimension to the already significant international isolation of Milosevic and his regime. Moreover, Serbia was effectively excluded from the Stability Pact for Southeast Europe, its participation conditioned on the country's democratization and a change of leadership. (The pact, which will be directed by German chief of staff Bodo Hombach, is an EU initiative for stability and reconstruction. Its intention is to provide aid to Bosnia and Herzegovina, Croatia, Macedonia, Albania, Bulgaria, and Romania. Roughly 30 heads of state met in Sarajevo, at the end of July, to discuss the details of the aid package, estimated to be around \$5 billion.) The international donors made it clear that there will be no funds for Serbia so long as Milosevic remains in power. Some observers even surmise that funds for rebuilding Serbia will be made available only when Milosevic and his four colleagues are sitting in The Hague.

In response, Belgrade tried to approach those countries it perceived as friendly. Already in April, the federal parliament endorsed Yugoslavia's accession to the Belarus–Russia Union. While the move was energetically exploited in Belgrade for domestic purposes, the reaction of Russia and Belarus was cool. Even Belarusian president Lukashenka, who visited Belgrade during the NATO campaign and verbally supported Milosevic, expressed reservations about Yugoslavia's membership.

During NATO's air strikes, the internal political landscape in Yugoslavia was characterized by extreme tension between Serbia and Montenegro and by a gradual erosion of support for Milosevic and his war effort. Immediately after NATO began its bombing campaign, Montenegro sought to distance itself, as far as possible, from the federal and Serbian leadership. The Montenegrin government declared its neutrality in the conflict with NATO and continued its refusal to recognize—as has been the case since Momir Bulatovic (Socialist People's Party [SPP]) was appointed federal prime minister, in January 1998—any federal government decisions, including the declaration of the state of war. In addition, Montenegro offered refuge to thousands of Kosovar Albanians. Montenegrin president Milo Djukanovic (Democratic Party of Socialists [DPS]), a stalwart Milosevic enemy, embarked on a diplomatic offensive, meeting with a number of NATO leaders, including a meeting with President Clinton in Slovenia in mid-June. Djukanovic was promptly labeled a traitor by Belgrade. For several weeks during the air strikes, Montenegro offered a haven for some Serbian opposition figures, such as Zoran Djindjic of the

Democratic Party (DP), who left Belgrade in April for reasons of safety.

On the ground, tensions between federal army troops deployed in Montenegro and the Montenegrin police forces loyal to Djukanovic were palpable. The federal army tried to impose its supremacy on Montenegrin civilian authorities, but the latter resisted. On the whole, Djukanovic managed to avoid a direct confrontation with the federal army while limiting NATO's targeting of Montenegro. He also succeeded in portraying himself as a leader committed to genuine, democratic change. Consequently, Montenegro escaped, to some extent, the harsh international isolation imposed on Serbia. For instance, it was granted observer status in the Stability Pact talks, and some foreign financial assistance has been promised as well.

At the bombing's outset, it seemed that Serbian political forces from across the spectrum were united around the regime's defense. The strongest opposition party in parliament, Vuk Draskovic's Serbian Renewal Movement (SRM), had already been seduced into entering the federal government in January. (See *Yugoslavia Update*, *EECR*, Vol. 8, Nos. 1/2, Winter/Spring 1999.) At the beginning of the air strikes, the opposition parties not represented in parliament were reluctant to react. Suffocating state-of-war regulations were immediately imposed, leaving little room for deviation from the official line. In addition, a chilling signal was sent to the opposition when the prominent journalist Slavko Curuvija, who had criticized Milosevic and his wife, Mirjana Markovic, was murdered in front of his apartment house in Belgrade, in broad daylight, at the end of March. Needless to add, the perpetrators were never apprehended.

In spite of censorship imposed on the media, some political figures gradually began to voice dissatisfaction with official policy. Vuk Obradovic, from the Social Democracy Party (SDP); Goran Svilanovic, from the Civic Alliance of Serbia (CAS); and others, mostly from the Alliance for Change (AC), intensified their criticism. Vuk Draskovic, now a deputy federal prime minister, also began to express a more conciliatory approach toward NATO. As a result, he was sacked from the government at the end of April. Demonstrations in central Serbia also began some time in May, first by the parents of soldiers. Authorities reacted promptly and quashed any significant disturbances.

After the withdrawal from Kosovo, reservists organized roadblocks, demanding payment for their services during the war. Serbian refugees from Kosovo also tried to organize demonstrations, this time in Belgrade, but were quickly dispersed by police, and the leaders of the protest were sentenced to 30 days' impris-

onment. After the cessation of the bombing campaign, AC organized a series of demonstrations in smaller Serbian cities, the effect of which remains to be seen. People took to the streets in southern Serbia, namely, in Leskovac, an area considered a stronghold of Milosevic's SPS. In a number of towns, petitions calling for the resignation of Milosevic and his government were circulated, and in Novi Sad, one of the cities hit hardest by NATO air strikes, the city council issued a public statement with the same demand. After years of hesitation and maneuvering, even the Serbian Orthodox Church called on Milosevic to step down, a call echoed by some prominent intellectuals from the Serbian Academy of Sciences who had been instrumental in Milosevic's rise to power a decade ago.

All of this, however, should not be taken to suggest that Milosevic is losing control. True, he has been seriously shaken, and public-opinion polls indicate that support for him has declined significantly in the last few months, but all state structures continue to be loyal. His coalition partners, including Vojislav Seselj's extreme nationalist Serbian Radical Party (SRP), maintained their de facto supportive role, despite their earlier public rejection of a foreign presence in Kosovo and the collective resignation of all SRP ministers from the Serbian government when NATO troops entered the province. In a decree that is highly questionable constitutionally, President Milutinovic promptly refused to accept these resignations, ordering all ministers to stay in the government. SRP did not object, and the ministers remained, a sign of fundamental commitment to Milosevic and his SPS. In the aftermath of the NATO campaign, Milosevic has been confronted with the most serious challenge since he came to power. But it does not seem that he will be forced from his position anytime soon.



The Yugoslav and Serbian legal systems were rapidly adapted to the belligerency. After the federal government declared a state of war, on March 24, a series of decrees followed (Art. 99.11). Altogether, the federal government promulgated 77 decrees, decisions, and other regulations pertaining to matters such as the country's defense, the judiciary, certain criminal procedures, media censorship, monetary and tax systems, foreign and domestic trade, price controls, labor regulations, and so on. For example, all men between the ages of 18 and 60 were prohibited from leaving the country without permission from the federal army's general staff. A general mobilization, however, was never declared. Military prosecutors and courts were established with the authority swiftly to prosecute and try draft dodgers and AWOLs in absentia. Data was not made public, but there are indications that the military courts were quite busy, especially in Montenegro (some

14,000 cases are reported pending). Another decree required citizens and businesses to make available to military authorities, if necessary, vehicles, machines, telecommunication equipment, and real estate. It appears that luxurious, four-wheel-drive jeeps were in great demand. All print and other media were subjected to military censorship.

As required by the International Covenant on Civil and Political Rights, Art. 99.11 of the federal Constitution states that certain freedoms and rights cannot be suspended during a state of war. The Serbian Constitution, however, does not include any such safeguard. As a result, Serbian president Milutinovic and the Serbian government issued 16, very restrictive decrees related to personal rights and freedoms. (According to Art. 83.7, "the acts passed in wartime can limit individual freedoms and rights of people and citizens and change the organization, composition, and authority of the government and the ministries, courts, and public prosecutors' offices.") The decree on internal affairs authorized the police to deport anyone who endangered Serbia's defense capabilities to a secure location for up to 60 days without a court order. Also, public gatherings of any kind, except those organized by the authorities, were prohibited. Citizens were required to notify authorities within 24 hours of any change of residence, even temporary, while minors under the age of 14 were instructed to obtain identity cards. Individuals were prohibited from missing work in all public and private institutions and businesses (which proved useful when official propaganda meetings were organized).

Although Montenegro refused to recognize the state of war, its parliament did issue several decrees related to taxation, labor regulations, and to the control of the supply of basic commodities.

On June 24, the federal parliament lifted the state of war, and all federal decrees were abolished, except those pertaining to price controls. But the status of the Serbian decrees remains unclear. They were neither revoked by the president or the government nor confirmed by the Serbian parliament, as required by the Serbian Constitution. This ambiguity continued for a few weeks until it was finally announced that the

Serbian parliament would discuss the issue in mid-July. It is widely expected that many wartime provisions will now become regular legislation. Both the federal and Serbian constitutions require that regulations promulgated during a state of war be confirmed by the respective parliaments as soon as they meet. (Article 99.11 of the federal Constitution states that the "federal government shall be obliged to seek the approval of the Federal Assembly for these measures as soon as it is able to convene"; Art. 83.7 of the Serbian Constitution states that the president must submit these decrees "for confirmation to the National Assembly as soon as it is able to meet.") Although both parliaments were convened during the state of war, the regulations concerning the state of war were never discussed.



Designed in 1992, the Yugoslav constitutional system will most likely be another fatality of the confrontation with NATO. It now appears to be beyond repair. Despite all the official claims, Kosovo has been effectively dislodged from the existing constitutional framework. Security Council Resolution 1244 essentially places Kosovo in the category of an international protectorate. More than 50,000 international troops will be stationed there, and the province's administration will be entrusted to the UN. Other international organizations, such as the OSCE, will also participate. The Yugoslav and Serbian authorities have completely lost control of the province. Montenegrin authorities and politicians have repeatedly emphasized that they aim to redefine relations with Serbia, strongly supporting a much looser federation. Milosevic's SPS publicly accepted the call to begin discussions on a new constitutional arrangement between Serbia and Montenegro. Whether SPS will actually make good on this remains to be seen.

The Serbs who remained in Kosovo have sought to organize themselves with the Orthodox Church, a move strongly criticized by Belgrade. The KLA moved swiftly to fill the vacuum after the federal army and the Serbian police withdrew, forming a provisional government. But not all Kosovars support the KLA, and various prominent Kosovo politicians, such as Ibrahim Rugova, have only just returned to Pristina.

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