

SOUTH EASTERN EUROPE POLICY ANALYSIS – MAY 2000

(Drafts - to be amended)

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BALKAN SECURITY SYSTEM: ONE YEAR AFTER THE KOSOVO WAR *Is “cordon sanitaire” the most appropriate security system model for the Balkan region?*

Draft, May 2

One year after the Kosovo war the future of the Balkans seems more opaque and uncertain than it was a year ago. The war could not succeed in replacing successfully diplomacy and failed to fulfill its main purposes, both in breaking off ethnic cleansing in Kosovo and in bringing lasting peace and stability on the Balkans. The international community could not effectively fill the political, security, administrative and economic vacuum in Kosovo after the end of the hot phase of the crisis. Even more, the two main factors in the conflict - the Yugoslav military and police forces and the Albanian extremist structures - pointed out by the West as the major sources of instability, were not significantly weakened. Neither NATO attacks, nor the international blockade imposed on Yugoslavia, nor the consequent damages were enough to shaken the power of the Yugoslav President Slobodan Milosevic. On the contrary, while the political opposition in Serbia has proved its inefficiency, he retains strong control on the security forces, military commands, and an effective media machine. At the same time, NATO's peacekeeping mission in Kosovo is losing control and the international administration is failing to effectively administer the province. During the last one year, the Kosovo Liberation Army was not disbanded, nor it was demilitarized. De facto, KLA maintained strong hold on power and undertook a revenge campaign of violation and ethnic cleansing in full view of the international forces. As a result, the idea of multiethnic Kosovo as well as the prospects of people of different ethnicity and religion living together seem more unrealistic than a year ago.

The changes that have taken place on the Balkans following the end of the Kosovo crisis and the security vacuum that has resulted from it have required a new type of relationships and interstate behavior as well as a new regional security system, which could provide for stabilization of the security situation in the region. Disrespecting the strong interdependence at the regional level and underestimating the correlation between internal conflicts and their regional dimension, the West has applied a rather isolationist approach. In contradiction to the idea of their initially proclaimed purposes, the Western countries have established a “cordon sanitaire” around Serbia. Thus, they have made pointless any idea for multilateral confidence and stability-building measures at the regional level leaving aside the state, which lies at the heart of the Balkans and where there is a major risk of destabilization.

DISCREPANCY BETWEEN PURPOSE AND EFFECTS.

THE PURPOSE.

A year ago NATO countries began a military campaign against the regime in Belgrade coalescing politically around a set of purposes. The primary purpose, which was pointed out was the defense of the human rights principles - stopping the ethnic cleansing of Kosovar Albanians, resolving the existing humanitarian problem and enabling refugees to go home. But there was also a maximal purpose, based on the “security through integration and cooperation” formula, which includes as follows:

- strengthening the process of regional cooperation and integration as a significant contributing factor to stability and security in Europe - development of an institutional system of regional cooperation in the fields of economy, reconstruction, security, education and media, civil society and democratization.
- integrating the whole of South-East Europe into the structures of the European union
- establishing regional security structures which will be further integrated into the common European security architecture.

Intensification of the regional military-political cooperation, development of mutual initiatives for increasing trust and commitment to solving problems of common concern, creation of regional sources of security and transformation of the Balkan countries from objects into subjects of their own security were seen by the international community as the key principles of the organization of a new security system for South-Eastern Europe which would bring peace and stability to the entire region.

THE EFFECTS.

Institutional effects. De jure Yugoslavia has a relatively well developed institutional system endorsed by its constitution. During the last ten years, however, the Yugoslav President Slobodan Milosevic has imposed a de facto authoritarian regime dominated by nationalistic values. He has succeeded in transforming nationalism into a tool for inner-state consolidation and into one of the ways to improve own positions in the process of resolving the problems with neighboring countries¹.

There was a strong believe that the NATO military operation against Yugoslavia could seriously shaken the authoritarian regime and Slobodan Milosevic's hold on power who is seen by the Western countries as the main hindrance to the democratization of Serbia. However, the expected political unrest and transformation from authoritarian rule to democracy did not happen. On the contrary, further disrespect for the law system and the international democratic principles as a whole appeared. The political stage in FR Yugoslavia is still dominated by Milosevic who retains control not only of the security forces and military commands but also of the financial flows and an effective media machine. Being a “good guy” and partner of

the West (together with the Croatia's president Franjo Tudjman and the leader of the Bosnian Muslims Alija Izetbegovic, who is now chairman of Bosnia's Tripartite Presidency) concerning the post-Yugoslavia crisis management, now Milosevic is given the reversed role - he was proclaimed a war criminal and an enemy of the international community. Driven into a corner, he has no other option but to stabilize his positions and consolidate his power. And he will be willing to risk a lot in order to secure these objectives which makes him even more unpredictable and places him out of any control.

The isolation and the international sanctions imposed by the international community on Serbia not only impede the process of internal political democratization but also strengthen the Serbia government's unwillingness to compromise and its ability to rally the population against the outside world. The international embargo additionally increases the challenge the political opposition in Serbia is faced with. The latter has not yet developed a strategy to capitalize on public anger with Milosevic, neither a strategic plan for political changes in Serbia. Now, it is entering the tenth year of multipartism without any precise political and economic program to be elaborated.

The last year's conflict in Kosovo has also deepened the tension and confrontations between the two components of the Yugoslav federation, further loosening the ties between them. Montenegro, the smaller unit in the federation, has de facto achieved full economic and, to great extent, political independence. Federal financial and customs laws, as well as the jurisdiction of the National Bank of Yugoslavia have been effectively suspended on the territory of Montenegro and customs barriers have been erected between the republics. Besides, Montenegro has passed its own Law on Citizenship and is already establishing its own foreign policy, abolishing visas for foreigners contrary to the will of the federal administration. Independently, Montenegrin authorities have increased the potential of the republic's security forces and now the republic has about 10,000 to 15,000 security forces staff².

As a response to the Montenegrin reforms, the Yugoslav authorities have taken countermeasures, as a result of which the Yugoslav Army has remained the only one common federal institution that still act on the territory of the both republics within the framework of the Yugoslav federation. These countermeasures include as follows:

- creation of paramilitary formations from within the ranks of the Yugoslav Army (Vojska Jugoslava, VJ) in Montenegro that owe allegiance only to Belgrade;
- suspension of all dinar payments between Montenegro and Serbia;
- ban on the import and export of goods between the two republics within the Yugoslav federation;
- ban on the Montenegrin export to third countries, etc.

Kosovo. As a result of the destructive military operation and the large scale ethnic cleansing, the traditional political and administrative system of the Kosovo region has been disintegrated. During June and July 1999 international military and civilian organizations entered Kosovo aiming at providing all forms of government while preparing the people of the province to take over the responsibility. One year later, UNMIK, the international administration, which in compliance with UN Resolution

1244 was charged with establishing some kind of workable administration within Kosovo, has achieved little success. Although, there is small progress in building some basic civil institutions, a domestic judicial system and local governance, the key problem of organizing a stable and democratic multiethnic society remains.

The main obstacle for the international administration effectiveness has been the political explosive question of the future status of Kosovo, which is still subject of antagonistic interpretations. Keen to avoid the Kosovo status issue, the international community has postponed the matter of a central Kosovo political administration. So, UNMIK's biggest challenge has turned to be the establishment of a kind of an effective decision-making system necessary for the resolution of the accumulated legal, administrative and security problems. The established Transitional Administrative Council of Kosovo, which has to act as a collective head of government, has turned out to be not a working mechanism. The Kosovo Serbs have not accepted the agreement and even the last decision of some of the Kosovo Serbs leaders to participate in it as observers has met the resistance of a significant part of the Serbs in the province. According to them, any participation in the work of such provisional institutions before Serbs refugees return is not of interest to Serbs, as this would freeze the status quo. The Kosovo Albanians have used this vacuum to institutionalize KLA in power and strengthen its position as the preeminent political force in Kosovo. It has succeeded in establishing a strong domination on the civil administration of the province and has turned to be de facto its government.

The absence of a clear legal framework has also been a result of the confusions over the future status of Kosovo. The Albanians judges do not want to apply the Yugoslav laws valid in the province until the start of the NATO campaign arguing that they are discriminatory. As a result, pre-1989 laws are applied - that is the law system that existed before the suspension of the Kosovo autonomy. Just because of the legal anarchy, the fragile judicial system as well as the wrong policy of the international community, power in the province is now held not by pluralistic and democratic structures but by private power structures and mafia organizations interested in the preservation of the chaos and lack of effective authority. Despite the regulations of the UN Resolution 1244 - it is enacted that wider Kosovo autonomy be created within the framework of Serbia - as well as the reservations of most of the countries, the Yugoslav sovereignty is effectively being suspended. Although, the Special Representative of the UN Secretary General, Bernard Kouchner has declared that he does not have a mandate to create an independent Kosovo, the process of disentangling Kosovo's administration as well as its economy from Yugoslav jurisdiction continues to move the province towards self-governing state entity.

The implementation of the UN Resolution has been additionally hampered because of the shortages in the administration's annual budget. Bernard Kouchner, has openly complained that UNMIK is understaffed and lacks the necessary funds to administer Kosovo property. Only 3,000 of the promised 6,000 international police officers are currently on duty in the province and only about half of the \$2.2 billion in foreign aid has been delivered³.

Economic effects.

The ethnic conflicts and inter-communal wars in former Yugoslavia have dramatically reduced the relatively high performance of the former Yugoslav economy and living

standards of the people. As a result of the last NATO campaign against Serbia, the country's heavy and light industries, agriculture, and infrastructure have suffered huge damages that have provoked a deep economic crisis. Instead of humanitarian assistance and considerable international economic and financial support, which Yugoslavia eagerly needed, the country has received new embargo and new international sanctions. Serbia has remained isolated and has not been permitted to open up its economic system to the world. There has been no legal basis for any flow of capital, for trade in goods and services. In that situation, the country has chosen the only way it possesses to defend and develop its economy, its home and foreign trade - it has withdrawn resources from the legal sector to the gray sector of transactions, which has led to complete criminalization of the state's economy as well as of the region as a whole.

Unlike its isolationist policy towards Serbia, the international community has applied a different approach related to Kosovo, directly involving in the reconstruction of the province. But one year after the military campaign of NATO a lot of fundamental problems still remain unresolved. There still are not any serious results in reviving economic activities, in providing any Kosovo administration revenue and in lessening strong dependence on foreign aid. There is no significant progress in the rebuilding of the economic and service infrastructure. Although the UN administration has implemented a number of measures, such as introducing the German mark as the official currency and establishing customs and import duties, it is estimated that till now humanitarian projects have failed to meet even 10% of the need.

Given the international community's difficulties in restructuring the province, in controlling the situation, and in preventing the rise of organized crime, it is not surprisingly that the regional economic activities are completely dominated by powerful Albanian clan Mafia structures, which gradually turn the region into an entirely criminal area. Without an effective law and order system, and enjoying the tacit support of the international forces those groups that are closely related to KLA are gaining strength and threaten to destabilize the security situation in the Balkan region.

Security effects.

NATO operation against Yugoslavia has not succeeded in establishing a stable peace and security on the Balkans neither in creating an integrated approach to regional security mostly because it has failed to break down the two major sources of instability and tension in the region. These are the Yugoslav military and police forces and the Albanian extremist elements.

Yugoslav military and police forces. Despite Serbia's political, economic and military weakness following the last two wars in Bosnia and Kosovo, the Yugoslav Army is still a significant security factor at the regional level. Yugoslav President retains control of security forces and is still strongly supported by the Yugoslav Army (Vojska Jugoslava, VJ). It is led by loyal to Milosevic hard-line generals who continue to obey only him and his decisions, disrespecting the Federal Supreme Defense Council. For the time being, there are no clear signals that the status quo could be changed and that the dissatisfaction among the lower ranks could grow up in a way that the army to turn against the regime. On the contrary, the appointment of Gen. Dragoljub Ojdanic (who is among the top political figures indicted for war

crimes by the tribunal in The Hague along with Milosevic) as federal defense minister and of Nebojsa Pavkovic (who is one of the ideologues of the war with NATO) as Chief of the General Staff could lead to the further deterioration of the situation in the Federal Republic of Yugoslavia. Besides, the largest item of 2000 year Yugoslavia's budget was intended for financing the defense of the country and the Yugoslav Army's expenses - 73 % of the \$1.94 billion total; 25 % of Serbia's 2000 budget was allocated for the Milosevic controlled police forces⁴.

Having the authority with the military and police forces, Slobodan Milosevic could use some Balkan flashpoints to detract attention from serious domestic problems, on the one hand, and to challenge the Western countries and the regional security system that has been imposed by them, on the other hand. The developments in the northern Kosovo town of Mitrovica (the largest remaining minority "enclave") have proved that NATO has not deprived Serbia to influence events in Kosovo and to destabilize the region. Yugoslav Army's special operations and many training exercises near the Kosovo border, its ability to sustain the presence of federal forces in Montenegro as well as the occupation of the civilian areas of the Podgorica airport by army units could be estimated as such a signal from the Yugoslav President to the international community that he is still in command of sufficient military force which may turn the country and the whole region into a new battlefield. And, a new conflict means further destabilization and isolation of the whole region. It means that the Balkans will remain cut off from Europe, serving only as a cordon sanitaire around Yugoslavia and that the efforts for serious regional cooperation and security structures will be additionally hindered.

The Albanian factor. In the aftermath of the Kosovo conflict Kosovo Liberation Army (KLA) has not been transformed nor it has been removed from the political scene in Kosovo. Its well-preserved remnants have in fact remained a powerful and active factor in the province. Part of the guerrillas have established a new political party, the Party of Democratic Progress of Kosovo, others have joined the new Kosovo Protection Corps (a kind of national guard for emergency and disaster response, which the Albanians intend at some future time to turn into a permanent army of an independent Kosovo) or Kosovo Police Service. There is, however, a significant part that is still involved into broad range of corrupt and illegal activities, including organized crime and violation. This group of former KLA members still threaten the future of Kosovo as well as of the neighboring states, especially those, where the Albanian Diaspora has established a strong presence.

As the international forces suffer difficulties in controlling the security situation and in preventing the rise of organized crime, they have not made any serious systematic efforts to confront and destroy all KLA structures. Supplying and supporting KLA forces during the conflict, in the post-crisis period NATO troops have not strongly opposed to them nor to their major aim - the establishment of an independent mono-ethnic Kosovo. Holding positions of considerable power and enjoying easy access to weapons, most of the KLA members have completely disregarded international community's mission for a peaceful and multiethnic Kosovo and have involved into violent and criminal activities. They undertook a new campaign of mass scale human rights violation where the roles were reversed. Ethnic cleansing and systematic abuse of human rights mainly over the Serb population but also over other ethnic communities (Roma, Turks, Goranci, etc) has taken place in the view of the KFOR

units. According to official estimates, following the withdrawal of the Serbia forces about 350,000 non-Albanians left Kosovo, among them about 270,000 Serbs⁵.

The international administration, having difficulty in meeting its target for number of international police, cannot succeed in confronting the present human rights abuses and in establishing a working cooperation with the different units of the KLA. Instead of adopting an effective method for protecting the ethnic minorities in the province, KFOR and UNMIK have opted to establish protected zones mostly for Serbs, which have turned to be merely crisis spots with a growing dissension between the two communities and radicalization of both sides (more than half of the Serb population live in north Mitrovica and the surrounding area, which means that there are only 40,000 in all the rest of the province). KFOR has made little progress in establishing law and order and is gradually losing control in these special zones, becoming even target of Albanian violence. NATO has been placed into an embarrassing position of defending itself and its mission against those it basically went in to defend. The prolonged violence in Mitrovica have become a symbol of the helplessness of the international administration to pacify the resistance of both Serbs and Albanians, to force them to live together in harmony and have gradually undermined the mission of the international forces in Kosovo. The proposals for increased international presence in the province have additionally illustrated NATO's incapacity to establish firm control of the extremists elements and to guarantee safety and security in the region.

On the other side, the understaffed police forces, the lack of the necessary funds, the absence of a clear legal system as well as the influence and the strong presence of the cruel Albanian mafia have created a good climate for criminals and militant groups to prosper. Criminal organization has appeared, exploring the lack of security and police to attack property and people belonging to ethnic minority, to steal, harass and kill citizens across Kosovo. Crime, weapons and drug trafficking is flourishing in full view of international authorities. It is known that the so called "Balkan route" - a smuggling channel from Afghanistan via Bulgaria, Macedonia, Kosovo to Western Europe - that supplies 80 % of Europe's heroin is dominated exactly by the Kosovo Albanians who rely on clan loyalties to tightly control the whole business⁶. International experts consider that the Kosovo drug smugglers "are handling up to five tons of heroin a month, more than twice the quantity they were trafficking before the war"⁷. The Balkan route is not only a way for them to make enormous profit but also a way to smuggling weapons in the Balkan region.

Becoming increasingly secure in their authorities over Kosovo, the Albanian militants begin to struggle between each other for power - either political or criminal - and for control over those lucrative criminal activities. Gradually, the incidents of inter-ethnic violence are being "muffled" by rifts and battles between different KLA leaders and fractures. The international forces are not able or simply do not want to impose control over those organized crime elements nor do they risk to interfere into internal KLA struggles, which in addition stimulates the criminalization of Kosovo and shakens the security situation on the Balkans.

While the main civilian bodies, the UN and the Organization for Security and Cooperation in Europe, OSCE, keep on being subject to contradictions and disputes, the substantial security threats in the region - Yugoslav military structures and Albanian extremist elements - are gaining strength and emanate constant threat to seriously challenge peace and security in the region. Both the Yugoslav army and the

Albanians have retained their potential of provoking and maintaining ethnic conflicts and for that reason they remain a enormous threat to the development and the peaceful reconstruction of the whole region. Any new confrontation between them could not only undermine the basic security in the province but could also spill out smuggling, crime and violence into the whole Balkan region destabilizing the fragile balance established within it. Any further confrontation in the region and creation of an independent Albanian Kosovo will mean destabilization, as it would encourage Albanians in the southern part of Serbia proper, in Macedonia, and in Montenegro to make similar demands. It would provoke a chain reaction of self-determination aspirations and bring about intensification of the existing contradictions between Macedonians and Albanians within Macedonia. The aggravation of the tension in Macedonia with its precarious ethnic balance will have an effect on Bulgaria, which maintain close relations with it. On the other side, an independent Kosovo could provoke a domino effects and strengthen the nationalist aspirations not only in Western Macedonia but also in Bosnia and in Sandzak - an area covering the north of Montenegro and south-west of Serbia. The ethnic Muslims are the largest ethnic group in Sandzak. They have strong family and other ties with the Bosnian Muslims and a possible secession of Kosovo could intensify the strivings for strengthened relations with Bosnia and even for breaking away from Serbia. The establishment of an independent Kosovo state could also undermine the fragile inter-ethnic tolerance between the different ethnic communities in Bosnia. It could make them destroy the Dayton accords and lead to destabilization of the Balkan region as a whole. Greece and Turkey, both NATO member state with important national interests on the Balkans, would also be affected and upset with such a development of the regional security situation.

“CORDON SANITAIRE” AROUND FR YUGOSLAVIA - THE NEW REGIONAL SECURITY SYSTEM.

The Kosovo crisis and its aftermath have brought about significant changes to the security environment on the Balkans which call for the development of a new security system for the region. The process of defining a new security system has been underlined basically by the idea that the Yugoslav president Slobodan Milosevic is the main obstacle for the achievement of the main purposes of the international community related to the region of South-East Europe.

The West has already tried to overthrow Milosevic by using several means. First, it was the blockade imposed on Yugoslavia, then came the NATO attacks with the hope that popular discontent from the damages and the loss of Kosovo are enough to weaken his power. This did not happen, and after the hot phase of the conflict the Western countries has imposed a *cordon sanitaire* around Serbia. Both by political and economic measures, the West tries to strengthen the isolation of the republic, to tighten the noose around the regime in Belgrade, to limit the most destabilizing effects proceeding from it and finally to gain its major purpose - political, economic and military integration of the whole region.

The Southeast European Stability Pact has also been designed in a way that suppose the establishment of a ring around Serbia, which would gradually reduce its strategic importance. The European Union member states has emphasized that only democratic and cooperative Serbia, living at peace with its neighbors, will be welcome to join the European family and will enjoy the funds necessary for the development and reconstruction of the country. Thus, instead of support and cooperation, the Western countries have chosen selective sanctions as the basic means for the achievement of their aims concerning the region.

The establishment of the new security system has seriously affected Serbia's pro-Western oriented neighboring countries converting them into links of the ring called "cordon sanitaire". After the death of its authoritarian president Franjo Tudjman and the peaceful transfer of power, **Croatia** has shown its strong pro-Western orientation and firm determination to meet the requirements necessary for EU integration. The divisions within **Bosnia** still exist and a possible withdrawal of the international administration could bring about chaos and a new stage of violence. **Hungary** is already a NATO member state and is in its way to join the European Union, while **Bulgaria** and **Romania** apply both for EU and NATO membership. Even **Macedonia**, **Montenegro** and **Albania**, despite their political and economic problems, have proved their pro-Western orientation and their will to cooperate with the Western countries. Playing the role of a "buffer zone" between Serbia and the Western countries, all neighboring countries are exposed to a double pressure both external and internal - on the one hand, they are exposed to the negative impact of Belgrade's status, and on the other hand, to the threat of further turbulence within FR Yugoslavia.

INTERNAL PRESSURE.

During the last ten years Slobodan Milosevic has proved that the key element of his strategy for political survival is on the one hand, his ability to provoke and direct the nationalist sentiments of the Serb population, and on the other hand, his ability to spill out crisis distracting the public attention from the domestic political situation. The latter is extremely important for the neighbors of a country which is in full isolation and under international sanctions.

Faced with a total isolation, the Yugoslav President has no other way to respond to the impending threat but to "export" the internal tensions and to internationalize the crisis. If he does not succeed in spreading the crisis beyond the borders of Yugoslavia, it would burst within the framework of the country and would oust him from power. On the contrary, the extension of the conflict area and the spilling over of the tensions into zones outside the country's territory would immediately relieve domestic pressure and increase leader's possibility to strengthen his grip on power and to successfully manage the situation in his country. In this case, the conflict will be transferred to the territory of the neighboring state, especially to those, where the same conflict premise does exist. Which are these countries? On the first place, these are Macedonia and Montenegro because of the significant number of Albanians living

within their framework. In Macedonia the Albanians constitute one third of the Macedonian population, while in Montenegro they are about one sixth of the population. Sandzak and Bosnia will also be among the most threatened areas because of their predominant Muslim population. In Sandjak, which borders Kosovo, Albania, and Bosnia and which is a strategic passage to the Adriatic, the Muslim are claiming territorial and political autonomy. The Bosnian Serb factor must also be taken into account because of the fragility of the peace in Bosnia and because of the still existing strategy of *rapprochement* with the “motherland”.

Refugee problems, which will inevitably emerge with the spread of the conflict will additionally destabilize the security situation in the neighboring countries and can lead to strong fragmentation in the region. Forced to flee from the conflict area, refugees could carry the struggles and tensions with them. They could pose a threat to the states that have accepted them because of increased political, economic, social, or cultural tensions. In this sense, refugees flows must be treated as a projection of ethnic conflict onto the territory of another country “by other means” that increase the danger of being drawn into the conflict⁸. Such extension of the conflict could undermine the precarious ethnic balance and compromise and provoke serious confrontations in those countries, which consequently would affect the stability and security situation in the rest of the Balkan states and would stir up old ethnic and nationalist strives.

EXTERNAL PRESSURE.

NATO military operation against Serbia has not shaken seriously Milosevic’s power. The Yugoslav President has once again revived nationalism and has diverted public attention away from Yugoslavia’s domestic problems. So, the threat of a new regional conflict still exists and the proximity of the area of potential destabilization as well as the possibility that the conflict could spill over directly threatens security of the Western countries. Any economic, social and political difficulties (migration and refugees, mafias, arms transfers, etc.) in Southeastern Europe would affect the rest of the continent. Any destabilization would have a negative effect on the European integration process and security⁹. To reduce those possible negative effects, the Western countries have imposed “*cordon sanitaire*” around Yugoslavia aiming at:

- preventing the tensions and the waves of instability from spilling over into the rest of the continent;
- increasing political, economic and military pressure over the regime in Belgrade in order a peaceful settlement of the conflict to be achieved;
- overthrowing the Yugoslav President Slobodan Milosevic and democratization of Serbia.

Aiming at the isolation of Serbia and the containment of the tensions within it, the embargo in fact directly affected the peripheral states bringing them significant damages in the following aspects:

Institutional aspect.

Countries in the region share a fragile institutional system of democracy, which is yet to be filled with real substance. The isolation of Yugoslavia, however, indirectly hamper their institutional modernization and stabilization. It slows down the administrative reforms, the current process of democratization and transformation as a whole. The pressure exerted both by Yugoslavia and the international community reduce the efficiency of the administrative reform, slow up the decentralization of the decision-making process and additionally impede the process of combating corruption. On the other side, the weakness of the public institutions seriously challenge not only the existing order but also civic security in general. Organized crime, illegal economy, large scale corruption and violation of citizens' rights is a direct consequence of state institutions' inability to enforce law and order.

Economic aspect.

The war in Kosovo has severely affected the regional economy. The destruction of the Danube bridges has not only disrupted Yugoslav Army supply routes but has also blockade river trade and has heavily damaged the industries of the Balkan countries. Trade between Balkan states now accounts for just 14 per cent of the region's economic activity, and has little chance of increasing¹⁰. Furthermore, the international community's embargo on Belgrade has led to the isolation of the economic system of the region from the international markets. It has brought about trade isolation, poor investment and credit rating of the Balkan countries and has additionally reduced their chances as an emerging market to attract investment and to intensify their participation in international commerce. Besides, the international sanctions on Yugoslavia have slowed down the privatization process in industry and banking as well as the reconstruction of the regional infrastructure network that is a basis for the economic resurgence of the Balkans. The isolationist approach imposed by the international community has undermined the possibilities for regional economic cooperation and integration, and the creation of a common regional economic system where a key role in economic settlement will not belong to the international financial institution but to the countries in the region.

The Stability Pact has been designed as a long-term strategy to promote economic stabilization and integration of the Balkans to the rest of Europe, i.e. to promote the main prerequisite for the regional stability and security. So far, this initiative has been associated with a bad organization, bureaucratic approach and a lack of coordination between the international institutions rather than with any significant results in the economic development and reconstruction of the Balkans. The main EU strategy that underlies Stability Pact program aims at cutting Serbia out of a growing network of cross-border development. Corridor IV, for example, is a large infrastructural project that will be the first road and rail link between Greece and Western Europe, which does not go through Serbia (till now transport through Yugoslavia was the fastest and the cheapest way of getting goods to markets in Central and Western Europe). Corridor VIII, an infrastructure area connecting Albania, Bulgaria and Macedonia, has just the same aim. In general, all EU plans exclude Serbia from the existing development schemes as long as Yugoslav President Slobodan Milosevic remains in power. However, the exclusion of Yugoslavia from the reconstruction process additionally brings in question the success of all development and stabilization programs. Undoubtedly, an overall process of stabilization, economic reconstruction

and development of the region cannot be accomplished without the participation of Yugoslavia, which has an important geographical location within the infrastructure network.

Security aspect.

Transforming Yugoslavia into a black hole at the heart of the Balkans, the international community has not only made impossible the implementation of real and effective regional institutional and economic integration but has also impeded the establishment of a stable security order on the Balkans. The imposition of the *cordon sanitaire* as a regional security system model contravenes the very essence of the purposes that the international community set a year ago. The isolation of Yugoslavia dooms to failure any attempt a higher level of national and regional security to be achieved through coordinated foreign policy actions of all the states in the region. It deprives of legal base any coordination of the states efforts to solve problems of mutual interest and to stabilize the security situation on the Balkans.

The new regional security system has not succeeded in developing a new type of relationships and interstate behavior and in resolving the problems related to cooperation and security. It is still impossible for the countries in the region to identify and develop a common regional interest, to develop a more stable relationship and to increase the level of confidence in order to improve the security situation. It seems that the integrity of the national interests of the countries in the region developed during the Kosovo crisis has been broken. Even more, some inherited or later developed problems reemerged breaking the compromise between the different interests and bringing about new stage of misunderstanding and discords.

The international sanctions have strongly affected the security situation in the region. They have boosted the local mafia economics and have supported the corruption process among politicians and civil servants. Consequently, the corruption of the administrative bodies has allowed crime and smuggling to flourish and is gradually converting the region into an area dominated by international criminal structures and different interest groups, which are gaining political influence.

THE KEY INTERNATIONAL PLAYERS: DISCREPANCY BETWEEN REALITY AND STRATEGY.

NATO. A year ago NATO began military campaign in defense of the human rights principles but without a clear political program concerning the post-crisis period. Hoping that the popular discontent from the damages caused by the NATO attacks and the sustained international sanctions will seriously shaken Milosevic's hold on power, the realization of the strategy of the western countries has been closely related to Milosevic's ousting from power and Serbia's democratization. The preservation of the political status quo in FR Yugoslavia has brought to a discrepancy between the real situation on the Balkans and the created strategy of the international community concerning this situation. In the absence of well-defined strategy, which strongly to correspond to the real political, security and economic situation on the Balkans, as

well as of a good framework for coordination, the international community has confronted the difficult issue concerning the application of those purposes that have been set before NATO's operation against Serbia.

NATO commitment to the development, reconstruction, and the stabilization of the Balkan region has been an important instrument in the containment of the strives between the regional conflict parties. KFOR force has prevented the spread of the conflict and the creation of new flash points on the Balkans that could damage the precarious regional balance as well as the European stability as a whole. However, the complex mission of carrying out of a long-term peace process also creates some concerns which could have serious consequences for NATO's unity and credibility. One year after the deployment of the international forces in Kosovo, NATO seems to be placed in a very delicate situation confronting the national interests and aspirations of the both conflict parties. On the one side, the Alliance does not stand for the return to Serb rule over the province nor it wants to negotiate with Milosevic who still retains his ability to influence the developments within the province. On the other side, NATO opposes the creation of an independent Albanian state in Kosovo, which being inevitably followed by ethnic cleansing against the Serb population, would undermine the positions of all NATO member states government and would bring advantages to the internal political opposition in those countries. The peacekeeping mission is further impeded by the lack of common perception and the split between the positions of the United States and those of the EU countries concerning their obligations related to the Kosovo problem. The pre-war understanding has obliged the United States to finance the war, and Europe - Kosovo's post-war reconstruction and development. Washington has really contributed two thirds of the military operation in Kosovo and now is prone to accuse its European allies for not pulling their weight in Kosovo especially in terms of the civilian reconstruction and restoring civil administration.

Worrying about the lack of progress in establishing a stable peace in the province and being especially sensitive about exposing to risk their troops during the presidential election campaign, the United States subsequently placed new restrictions on the deployment of US forces around the province (consequently, all but three of the Alliance member states present in Kosovo have done the same). Even more, the United States are overly determined to hold elections in the province in October, at any cost, in order to withdraw their troops as soon as possible¹¹.

European Union. Although the Kosovo crisis was estimated as a catalyst for the growing integrity of Europe in terms of security and defense issues, in the post-crisis period the European Union risks once again allowing the United States to take priority in what is called European security space. With the persistent contradictions among the EU member states concerning the distribution of the financial burden as well as the political significance of the Stability Pact and the whole reconstruction process, the Western European countries - whose troops make up 80% of KFOR - further impede the success of the peacekeeping mission. Besides, the EU inability to define a common position on clear strategy and priorities in the Southeastern Europe and on the means to realize it could undermine the process of establishment of a common European security and defense mechanism that is a guarantor of the stability in the region.

In April, 2000 KFOR has been placed under the direction of the Eurocorps, an alliance made up of troops from Belgium, France, Germany, Luxembourg and Spain. The new commander of the peacekeeping troops, General Juan Ortuno, has listed the protection of minorities and helping the organization of elections as his top priorities. This statement as well as the very handover to the Eurocorps involves an increase of the importance of the European Union's contribution to Kosovo budget and security.

Russia. NATO campaign against Belgrade has also brought about a split between the positions of NATO member states and Russia, which had lost a great deal of its influence in the region. Being Serbia's traditional supporter, Russia strongly criticized the Alliance's bombings on it. In the post crisis period Russian government has many times expressed its disapproval of the NATO peacekeeping strategy, which according to the Russia's official position, tolerates and is completely in favor of the ethnic Albanians and their separatist aspirations. Confirming its strategic interests on the Balkans, Russia has insisted to get a more substantive role for the Russians troops in KFOR and has even offered its own idea for the settlement of the problems in Kosovo emphasizing on the following prerequisite:

- respect for the territorial integrity and sovereignty of the FR Yugoslavia;
- negotiations on the status of Kosovo within the framework of FR Yugoslavia;
- strengthening the border control between FR Yugoslavia and Macedonia and between FR Yugoslavia and Albania;
- guaranteeing the return of refugees and the co-existence of people of different nationality and ethnicity.

Russia's stand is that Belgrade should play an important role in the process of stabilization and development of the Balkan region. In this sense, Russian policy firmly opposes the strategy of the Western country related to the post crisis security order on the Balkans. Whereas the new regional security system imposed by the West is based on the total isolation of Serbia because of the Milosevic's regime, Russia rejects all international sanctions against Serbia and supports the full integration of Yugoslavia into the common Balkan reconstruction and development process.

The existing conflict of interests within the international community additionally impede and defer the settlement of the existing disputes between the countries in the Balkan region. The difficulties faced by the key international players in adopting common positions and implementing their decisions also have repercussions among the countries in the region¹². The clash between the opposite special political and economic interests as well as the disintegration of the international community views about the processes in the Southeastern Europe best serves the interests of the different conflict groups in the region. Each of these conflict groups consolidates its positions, mobilizes its internal forces and tries to gain the favor and the good will of some of the great international players in achieving its own particular interest. The following intensification of the existing confrontations will make impossible a compromise to be worked out and hence, a regional political and economic integration as well as a collective security framework to be established.

CONCLUSION:

A year ago NATO started a military operation against Serbia in order to put an end to mass-scale violation of fundamental human rights, repression and discrimination on the basis of ethnicity. After the hot phase of the conflict these actions have not been succeeded by an appropriate post-crisis politico-military strategy backed by the indispensable unity of the international community. Consequently, the fragile peace in Kosovo has done nothing to resolve the long-term issue of Kosovo status, leaving both the Serb aim of Yugoslav sovereignty and the KLA's aim for independence of the territory legitimized.

On the one hand, NATO commitment to the development and stabilization of the South-East Europe region has prevented the spill over of the tensions and struggles from Kosovo to the rest of the region as well as further destabilization of the precarious regional security balance. On the other hand, the complex post-crisis mission has turned out to be the more difficult task for the international community provoking some confusion between its objectives and policy implemented. Until now, the international forces in Kosovo have failed to demonstrate a clear mastery of the situation despite its troops and civil administration. They have failed to provide for security and reconstruction, to reinstate rule of law and to build an effective law enforcement and justice system in the province. Both KFOR forces and the UN police contingent have not succeeded neither in preventing armed conflict and ensuring public safety and order, nor in deterring and clearing up crime, much of which is ethnic in motivation, nor in stopping violence and ethnic cleansing in Kosovo. This ineffective authority has allowed a serious power vacuum to develop, which Albanian criminal structures closely related to KLA have used to impose their direct rule over the territory of the province, to force out most of the Serb and other non-Albanian population and to get closer to their supreme aim - independent Albanian Kosovo.

The new security order imposed on the Balkans after the Kosovo war has been based on the full isolation of Belgrade's regime considered as the main security threat for the region. The developments of the regional situation during the last one year, however, have proved that the "cordon sanitaire" and the isolation of a conflict area as a means for the settlement of problems is counterproductive in short and media term. On the first place, it has deprived the international community of any lever and a means of control over Belgrade's regime. On the second place, the embargo against Serbia has aggravated the internal economic crisis not only in FRY but equally in neighboring countries. It has impeded the development of bilateral relations among the countries in the region as well as the establishment of a true Balkan market, which further slows down the process of political and economic reconstruction throughout the region. On the third place, the non-participation of the state concerned into the international decision-making process has undermined the very foundation of cooperative security policy. It seems that any attempt to stabilize the Balkans without including the country that is at the region's core is doomed to failure. The desire to contain the regime in Belgrade has proved to be incompatible with the general efforts to transform the Balkans into a stability and security zone, and to open the region to the rest of the world. Therefore, the international community, and especially the European Union, has to work out a new strategy for the Balkans underlined by the idea that in the security-building process the cooperation of the parties directly involved is indispensable and the international community cannot substitute for them.

THE PRINCIPLE OF SELF-DETERMINATION AND CHANGE OF BORDERS

Draft May 11, 2000

Introduction

The expectation for another conflict in the Balkans in the next few months is based on the upsurge in Southern Serbia, the doubtful results of the international administration in Kosovo and the tensions between Montenegro and Serbia. An outburst in any of these vulnerable points would lead to a chain reaction, igniting other hot spots in the region.

All these problems relate to the concept of 'self-determination', which refers to the right of all peoples to freely determine their political status and freely pursue their economic, social and cultural development. Basically, this means that a given people are recognized this right and thus, the political status of a territory they claim is legitimized internationally. Self-determination could be exercised in different forms, but the local context and experience implies resort to secession.

Along these lines the complex problems of the Balkans can be reduced to one question. If the principle of self-determination is to be given primacy over the principle of 'state sovereignty and territorial integrity', or rather how they will be interpreted, where and when will applied:

- **General application of the principle of (national) self-determination** would mean that the international community would itself establish or accept the establishment of new political-territorial units. This would bring about 'domino effect' in the region, offering the possibility of redrawing existing boundaries, reopening of recent conflicts and starting of new ones.
- **Preserving the status quo** would avoid open confrontations in the short run, but is based on wishful thinking, because it does not offer answers neither to the status of Kosovo, the future of Montenegro in FRY, nor to the concrete long-term international involvement in the region.
- **Selectively resolving each case**, in accordance with the specific conflict potential, timing and prospects for sustainable results (this is in fact keeping the present behavior). Though past experience has shown this is not part of a grand strategy, this option is the most likely to happen, because it offers more flexible solutions, coherent with the international community interests and the facts on the ground.

The contradictions between the principles of 'self-determination', including international humanitarian intervention' and 'sovereignty of states', including territorial integrity for the Balkans does not comprise only a debate on the changing character of international law or human rights issue, but has also its serious security dimensions. The application of the principle of self-determination in the case of Kosovo (i.e. independent Kosovo) would trigger the disintegration of the federation between Serbia and Montenegro, the Republic of Bosnia and Herzegovina, the

Bosnian-Croat Federation, the territorial integrity of Serbia and Montenegro themselves, Macedonia, and will affect the rest of the countries in the region.

Besides the implications of the international normative framework, the issues are further complicated by the size and the strength of the local factors and by the intentions and controversial results of international factors in their peace-enforcing, peace-keeping and state-building efforts.

Regional implications: the logic of 'domino effect'

The current developments in the regional situation, even at a first glance, suggest that if one change occurs in the status of the different political-territorial units, it is likely to have grave impact on other subject in the international system in the Balkans.

Recognizing a distinctive political status of Kosovo (independence), for example would trigger the separation between Montenegro and Serbia and a final dismemberment of FR Yugoslavia. This would give ground for Republica Srpska to claim integration with Serbia, and subsequently make the Bosnian-Croatian Federation within the Republic of Bosnia and Herzegovina meaningless. The Croatian population would request union with Croatia, leaving pieces of territory to the Bosnian Muslims. In Serbia itself the vulnerable points will erupt--South Serbia with its Albanian minority; the Muslims of Sandzac would first seek independence from Serbia and Montenegro respectively, unification of the two parts of the region and then integration with what is left of Bosnia; Vojvodina would either seek autonomy or its Hungarians will join Hungary. If this is the "north-north-west direction" of the next Balkan conflict, its "south-south-east" dimensions would ensue from an All-Albanian unification aspirations, disintegrating Macedonia and destabilizing Bulgaria and Greece.

Speculating about Balkan future and redrawing its map makes sense only in case enough evidence is provided to back up this scenario. For analytical purposes, the controversies between the principles of 'self-determination' and 'state sovereignty and inviolability of borders' has to be examined, then to distinguish the peculiarities of each case in terms of normative framework, actual situation, conflict potential, and the role of domestic and external factors.

The implication of the principle of self-determination in international relations goes beyond the Balkan situation. It is not only a legal or human rights issue--its security aspects are likely to launch the 'domino effect' all over again, affecting the whole region. The balance between the right of people to self-determination (including secession) while upholding the principle of the territorial integrity and sovereignty of states poses a major challenge for the region in the coming century.

The Principles of Self-determination and State Sovereignty as Legal Issues

The principle of self-determination was first mentioned as such in Articles 1(2) and 55 of the UN Charter as a basis for the development of friendly relations between states. Subsequently, 'self-determination' described the right of all peoples to 'freely determine their political status and freely pursue their economic, social and cultural

development'.¹³ Along these lines self-determination could be referred to as the right of the people to determine freely their political status, ranging from independence, union or free association with another state. The importance of the principle is that it also relates to territoriality, i.e. it is an international recognition of a distinct status granted to a territory.

The principle of self-determination comes in odds with the commonly accepted principle of sovereignty of states, including inviolability of state frontiers, as stipulated in the UN Charter and consequent documents, and in the Helsinki Final Act of the CSCE.¹⁴ The territory of a state is guaranteed by commonly accepted norms, which is not yet overridden by 'self-determination' in international relations.

Resolution 1514 (xv) of 1960, adopted by the UN General Assembly, called Declaration on the Granting of Independence to Colonial Countries and Peoples, also tries to accommodate the discrepancies between these two norms. After defining (somewhat vaguely) what the right to self-determination is, the Resolution claims that:

Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.

These developments have attached a colonial context to self-determination, and it applied to colonies, dependent and trust territories and not metropolitan states. The CSCE principles several years later were adopted in another context--Cold War confrontation in Europe and self-determination implied probably for the West the possibility of Eastern block peoples to change the political system, while to the East the right to maintain that system.

In the post-Cold War period, with the break up of the Eastern block, self-determination used to refer not only to secession from a parent state (like USSR and SFRY), but also the will of the Eastern nations to change the socialist system to liberal democracy. In this regard, the principle of self-determination did not embody a legal right, but rather a political will.

The Balkans "Model of Conflict Management"

Conflict prevention and conflict management in the Balkans has been defined by their goals, legalizing norms, mechanisms and instruments of involvement and intervention, and has their external (out-of-region) and internal (regional) constraints.

The global objectives of international intervention have been to end violence and secure international peace. This has been justified through humanitarian intervention cause because of gross breaches of human rights and threat to international peace. International intervention has been carried out by different actors--individual states, UN, OSCE, Council of Europe, the European Community (later the European Union), NATO, specially designed organs, like the Contact Group, but the principal instrument of intervention has been multilateral intervention.

The external constraints to international involvement in the crises are the different and changing interests and resources of the players at the international scene, the institutional specifics of the international organizations that have been involved in the

crises and of course the existing international normative framework concerning the crises.

Ethnic politics, be it ethnic nationalism or ethnonationalism, has the greatest relative strength among the internal constraints to conflict resolution (and main "perpetrator"). In other words, this is the principle of nationalism which holds that the "national unit should be congruent with the political unit"¹⁵ - every nation should have its state. So "conflict managers" in the Balkans have to balance between ethnic politics, reworded in political projects and the acting international normative framework and the other external factors.

Once taken into account, the proposed solutions should be tested against the capacities of the executors of proposed solutions on the ground in a long-term perspective. This actually means the capacity of states (or state-like entities), responsible for hosting institutional solutions to residing conflicts and implementing policy arrangements.

The possible institutional solutions to the conflicts should be able to accommodate the consequences of self-determination with international stability, the forms being international protectorates, federal or confederate structures, consociational arrangements, cantonization, all of them introduced in the environment of democratic regimes.

International response to the recurring Balkan crises has been quite diverse; nonetheless there are some constant features, which include emergence of precedents of policy decisions, actions and outcomes. Hence, one could claim the evolvement of a model, based on "precedent-based reasoning" on behalf of the members of the international community, with all the limitations specified above which could outline the possible policy options for conflict management in the Balkans.

Perimeters of self-determination

References to self-determination always call for identification of the beneficiary of this right--is it nationally/ethnically defined, or does it apply to a population of a given territory, who are claiming this right.

"The Peoples"

The current normative framework does not provide enough hints for a clear answer to the question: who has the right to self-determination, i.e. how "peoples" is defined? This is a paramount question, since social science disciplines have vested efforts, for practical reasons, in distinguishing first between 'nation' and 'state', and then between different forms of human collectivities such as 'nations', 'ethnic groups' and related phenomenon such as ethnicity, *ethnie*, minorities, nationalism, ethnonationalism, etc.

In historical perspective, the principle of 'self-government', introduced by President Wilson, used to refer to the ethnic groups, constituting the Habsburg and the Ottoman empires. In the 1950s and '60s, self-determination was largely applied to colonial people. In practice, the newly emerging states were demarcated along the borders of former colonies, without taking into account ethnic divides. Thus, most of the post-

colonial states are comprised of different ethnic groups, subsequently competing for control of state power or secession.

In short, international normative framework has failed to indicate the criteria to which a given group has the right to pursue legitimately self-determination policies. Inevitably, within the still nation-state system of international relations, the groups, aspiring to a greater autonomy or independence are usually described as separatists and/or ethnonationalists.

Levels of self-determination

Self-determination, along political regulation of conflict, is a question first of all of participation and representation. Moreover, self-determination can be expressed in different forms, ranging from different sorts of autonomy to full independence, granted to a collectivity of people with distinct territory, i.e. the right to statehood.

Autonomy itself could be non-territorial and territorial. In cases of non-territorial autonomy, also referred to as 'cultural autonomy', power is devolved from the state to authorities whose jurisdiction is over individuals defined not in territorial terms but in terms of some cultural or subjectively defined characteristic (like *the millet system of the Ottoman empire*).¹⁶ In the case of territorial autonomy, rights to self-government are attached to a group, inhabiting a particular territory.

Indeed, any discussion about self-determination calls also for clarifying the issue of collective and individual rights. It is not self-evident that collective rights concept and self-determination go hand by hand. In international documents, as far as human rights are concerned, it is implied that beneficiaries are individuals, members of minorities referred to as to "persons belonging to national minorities" and not so much to collective rights¹⁷. Analysts claim that inter-state system is very important when studying secessionist aspirations, i.e. whether the system is permissive or restrictive.¹⁸ In other words, this includes the question of state policies towards minorities and the respective reaction of minorities¹⁹ against the state.

Autonomy in the Balkans

In historical perspective, the particular Balkan experience is indicative that autonomy in many cases is in fact effective independence. The dissolution of the Ottoman Empire replicates cases of self-determination, leading to territorial autonomy and subsequently to full independence. Suffice to mention Serbia, which was granted independence only in 1878, or Bulgaria, which proclaimed its independence thirty years after the Russian-Turkish war of 1878. Although prior to proclaiming independence they were formally autonomous territories within the Ottoman Empire, they enjoyed *de facto* independence.

More recent case includes the autonomous status of Kosovo, provided by the 1974 Yugoslav Constitution. Observers claim that the Kosovo, though *de jure* within the confines of Serbia, could not be controlled by the Republican authorities. On the opposite, the Kosovo representatives had control over the Republic internal policy through their participation in the Republic's assembly.²⁰ Despite formally keeping

their status, the autonomous provinces of Kosovo and Vojvodina since the late 80s has been effectively outstripped from their privileges.²¹

If their sovereignty and independence are considered formal basic criteria of different territorial-political units in the Balkans, the following groups could be distinguished: 1) independent states: Albania, Bulgaria, Romania, Macedonia, Croatia, Turkey; 2) semi-independent: Greece (member of EU), Montenegro, Serbia (members of FRY), Republika Srpska and the Federation of Bosnia and Herzegovina (members of the Republic of Bosnia and Herzegovina). Along unitary-federal state axis, the situation is the following--unitary: Albania, Bulgaria, Romania, Macedonia, Croatia, Greece and Turkey, federal--Yugoslavia and BiH.

Considerations about the internal structure of a state is important in regard to the specific Balkan experience, since federal structures are more prone to dismemberment and the successor states are more easily accepted into the international community. Hence, autonomous or semi-independent states are more likely to claim secession.

The four principles of legitimizing right to a territory

Claims for secessionist self-determination inevitably relate to the problem of dividing territories. Susan Woodward distinguishes four principles, through which served for seeking self-determination in the course of the Yugoslav crisis--'historicist', 'democratic', 'Helsinki' and 'realist' one (and the fifth one, "introduced" by Radovan Karadzic, is based on land ownership).²²

The historicist principle claims a territory through references to pre-existing historical state. The difficulty with it is that every group and nation could find a period in its history that gives it the legitimate right over a territory.

The Helsinki principle defines nation-states with their current existing borders and views violation of borders as unacceptable. Contesting existing borders is deemed as a major threat to peace and international order.

The "democratic" principle is closer to the general understanding of self-determination, as it provides for a choice, expressed in a referendum, of the population of a territory.

The realist principle holds that physical control over a territory, whether maintained by a legitimate government or achieved by force, determines the state of affairs.

The Yugoslav Experience - 1990-1999

The disintegration of post-World War II Yugoslavia started with the multi-party elections held in 1990, and then the referenda in the Republics in 1990-1991, concerning their status within Socialist Federative Republic of Yugoslavia.

The external (Western European and EC at this stage) response to the starting disintegration of Yugoslavia was first a stand on the preservation of the State in the then existing form. The EC initiated Hague Conference on Yugoslavia in the beginning of September 1991 adopted a difference stance, providing for the

sovereignty of different republics, which could decide on their relations with the other members of the federation - so the projection would be the establishment of a loose federation or confederation of states.

The Arbitration Committee, established by the EC (known also as the Badinter Committee) had to assist the EC decisions, regarding the recognition of new East European States, and especially those of the SFRY and the USSR.

Slovenia, followed by Croatia received left the federation in 1991. The third republic to emerge from SFRY was Bosnia-Herzegovina, which declared independence on **Error! Not a valid filename.** February 29, 1992, while Bosnian Serbs proclaimed a separate state of Republika Srpska on **Error! Not a valid filename.** March 27, 1992. The Republic of BiH, under its Muslim presidency, was recognized by the European Community on **Error! Not a valid filename.** April 6, 1992. The international recognition was extended by the acceptance of Slovenia, Croatia and BiH, when they became members of the United Nations on **Error! Not a valid filename.** May 22, 1992.

The West admitted that the Yugoslav population had self-determination rights, but the question is to whom and what did it apply. Obviously, it did circumscribe only an ethnic majority within existing administrative borders of the republics. Slovenia did not have large minorities and was perceived as ethnically homogenous, but Croatia had its numerous Serbian majority, concentrated in distinct parts of the territory. The vote of this minority to stay within Yugoslavia was not taken into account by the international community, neither was the aspiration of the Serbs and Croats in Bosnia and Herzegovina.²³

The international responses to the Yugoslav crises since 1990-1991 are indicative for changes in the interpretation and proposals for codification of these changes in international normative framework. Two basic principles--sovereignty of states and inviolability of borders are challenged by commonly accepted international values. Observing human rights is a responsibility of the State, but gross infringements on human rights are of primary concern of international (UN) and regional organizations (OSCE, COE). There are established mechanisms for protection of human rights, intervention in state affairs, but the pending question is of the limitations to external intervention, its legitimacy and mechanisms. Apart from "conspiracy theories" explaining international intervention in the Balkans, the evident reasons for such interventions so far are protecting international peace and ceasing human rights violations.

In the beginning of the Yugoslav crises, some actors at the international scene (Germany and Austria, followed by the EC) decided to recognize the independence of the Yugoslav republics which legitimized international intervention. Recognition meant that Article VII provisions of the UN Charter could be activated, stating that the activities of the Yugoslav army was an act of aggression and could be used in restoring international peace. The legal grounds for intervention in Kosovo several years later was validated by human rights concerns.

Two Interpretations of Self-determination

The Badinter Committee's treatment of the issue of self-determination results in several conclusions. What is implied in the opinions of the Committee is that there are two major understandings of 'self-determination'. The first one confers this right to republics (not constituent nations in the Yugoslav case), understood as full independence, and the second one refers to self-determination as a matter of human rights issue, concerning minorities within the (potentially) sovereign states.

In the first case, these are the Slovene and Croatian appeals for independence on the basis of the right of every nation to self-determination. The EC and the Committee *de facto* and *de jure* admitted this right to the Slovene and the Croatian nations, but identified within the existing republican borders. As far as the then functioning Constitution of SFRY is concerned, its first Basic Principle said that 'the nations of Yugoslavia, proceeding from the right of every nation to self-determination, including the right of secession...', but no mechanism for secession was identified.

The second interpretation evolved in relation to the Committee's decision on the request about the right of the Serbs, living in Croatia and Bosnia and Herzegovina, to self-determination on the ground of being one of the constituent peoples of the SFRY. The Committee refers to Article 1 of the International Covenants on Human Rights of 1986 and claims that the right of self-determination refers to safeguarding human rights, and especially of the right to identity, and applies to minorities and ethnic groups. Therefore, the Serbian population outside Serbia is regarded as a minority, whose rights should be protected by the state, i.e. Croatia and Bosnia and Herzegovina, respectively. Those rights were to be regulated by the existing international normative framework and by the draft Convention of the Conference on Yugoslavia, held in November 1991. In fact, the Hague Conference tried to raise the question of rendering territorial autonomy to the Serbs in Krajina (Croatia) and the Albanians in Kosovo, but this suggestion did not come into effect, as there were no leverages to influence Serbian and Croat leadership.²⁴

Territorial Arrangements

The Committee's decision on the Yugoslav case was motivated by the Mali-Burkina Faso case of the International Court of 1986. The answer is based on the perception that the principle of inviolability of existing frontiers cannot be ignored, and this is in line with the defined *uti possidentis*.²⁵ The 1986 case stipulates that the pre-existing administrative frontiers of the colonies are to be considered the frontiers of the new independent states. Any readjustment of the frontiers was deemed as a threat to stability and peace, violating the basic principle of territorial integrity of states. The International Court had also taken into consideration the conflict between the principle of self-determination and that of *uti possidetis juris*, but concluded that:

The essential requirement of stability in order to survive, to develop and gradually to consolidate their independence in all fields has induced African States to consent to the maintenance of colonial boundaries or frontiers, and to take account of this when interpreting the principle of self-determination of peoples. If the principle of *uti possidetis* has kept its place among the most important legal principles, this is by a deliberate choice on the part of African States.

The Badinter Committee itself noted that:

Whatever the circumstances, the right to self-determination must not involve changes to existing frontiers at the time of independence (*uti possidetis juris*) except where the states concerned agree otherwise.²⁶

This may be grounded on the 1974 Constitution of the Socialist Federal Republic of Yugoslavia, which defined the Republics as 'states' (Article 3) and stipulated (in Article 5) that the Republic's territories and boundaries cannot be altered without their consent.

Demise of a State, not secessions

The very opinions of the Badinter Committee (Opinion No.1 - 2) b)) claim that in the case of SFRY, the case is not of secession of different republics, but of the disintegration of the federation, i.e. it was explicitly stated that SFRY is no longer existent. The Committee concluded that the federal institutions were not functioning, including the Federal Presidency, the Federal Council, the Council of the Republics and the Provinces, the Federal Executive Council, the Constitutional Court or the Federal Army, and that they no longer meet the criteria of participation and representatives inherent in a federal state.

International recognition of demise or establishment of a state, as contingent on the defining what 'a state' means-- it is commonly defined as a community which consists of a territory and a population subject to an organized political authority; that such a state is characterized by sovereignty. Apart from these basic criteria, the admission of a new state into the international community is done by the members of this community through their recognition of the new subject. Judgement for recognition is usually conditioned on the prerequisite that the new state will respect international law and other obligations. In the case of SFRY, the EC set formal criteria to be met by the applicant republics.

Nonetheless, the criteria, concerning internal affairs are related to two issues: 1) control exercised of the government over a territory and 2) legitimacy of the government in question in relation to the population.

Speaking in terms of federal and unitary states, the EC Committee assumed that the federation no longer functions and the newly emerged states are unitary ones and the governments are the legitimate ones.

The actual situation was rather different. Ethnic politics on behalf of residing ethnic groups contested the legitimacy of the states and the governments, leaving basically three options. The first one was keeping the federation intact, expressed by Serb minorities in other countries; the second one being gaining territorial autonomy within the existing republics; the third option was applying the principle for self-determination to the fullest, i.e. secession of minority territories from host countries.

The international community opted for another solution, which was based on preserving the republics in their existing borders and securing human rights through arrangements as stipulated in basic international documents.

Case 1: Aggression

Germany, backed up Austria, which had the guiding role amongst the Western States, decided on recognizing the sovereignty of Slovenia and Croatia in the end of 1991 and urged the other members of the EC to do so in mid-January 1992. Whatever the reasons for the German and Austrian behavior were²⁷, the basis of the EC foreign policy up to that moment--inviolability of borders and observing the sovereignty of SFRY had already changed--after the international recognition of Slovenia and Croatia, the administrative borders of the SFRY had become borders of states. Thus, the major Helsinki (and international) principle appeared again to protect the borders of the newly self-determined states. The grounds for legitimizing international intervention in this case were aggression on behalf of the Yugoslav army and Yugoslavia. A similar case was that of Bosnia and Herzegovina.

The course of events changed the situation. With the international recognition of the former Yugoslav republics, non-recognition of FRY (Serbia and Montenegro) as successor of SFRY, the Serbs in Croatia and Bosnia became secessionists themselves, opposing the internationally acknowledged governments of the two states.

This approach of the international community could be traced in the UN Security Council Resolutions, dating from 1991-1992. Resolution 713 (1991) addressed the government of Yugoslavia, Resolution 721 (1991) and Resolution 740 (1992) refers to "Yugoslav parties". After the acceptance of the former Yugoslav republics as UN member states, they already had all the rights of sovereign members of the international community and the protection thereof, as stated in Resolution 787 (1992) referring to the threat to the territorial integrity of the state.

Case 2: Insurgency and Separatism

Acknowledged as an independent state, equal and sovereign member of the UN, with an internationally recognized government, Bosnia and Herzegovina was protected by international norms as against aggression by another state (FRY) as well as from internal insurgency on behalf of the Bosnian Serbs (and to some extent by Croats). The same was true for the new Croatian State, challenged by the federal army and after that by the Krajina Serbs. UN Chapter VII principles were reinforced by the EC Conference on Yugoslavia, stating that no changes attained by force would be acceptable.

This was definitely cases when self-determination of people, was not in line with the intentions, and hence with the particular rules of the international community. The Serbs, already defined as a minority or warring party and not a "constituent nation", could claim self-determination, the international actors viewed them generally as criminals. Nonetheless, Serb atrocities disesteemed their claims and prevented acknowledging them the status of belligerent party, fighting for a just cause and hence, providing some sort of international legitimacy for their aspirations.

Case 3: Humanitarian catastrophe

Serb faction in Bosnia was semi-legalized by including them in the numerous negotiations for Bosnia and finally were granted an "entity" within Bosnia and Herzegovina, but in any case were not regarded as fighters for freedom. Their actions

were condemned as crimes against humanity and are dealt with by the UN International Tribunal for Former Yugoslavia.

But what "nationalism studies" paradigm regards as "ethnic nationalism and ethnonationalism", in terms of international relations and law is quite a different matter.

The Kosova Liberation Army of the Albanians since the start of the armed clashes with the Serbian armed forces enjoyed the status of belligerent party, which fought for just cause and thus could be regarded as an ally of the democratic West. Though it is doubtful to what extent they are really democrats, but self-determination for their people was requested and was obtained on the battlefield by NATO forces.

Although possible as a result of the crisis, the partition of Kosovo was not commented officially nor it was set as an option for resolving the crisis. The West would also not accept partition of the province between Albanians and Serbia, because it would be a sign for yielding to Milosevic's pressure. But there is also the explanation of upholding previous course of action, based on avoiding change of borders beyond certain extend, moreover, changes achieved by force.

From a normative point of view Kosovo was the hardest case to be dealt with in terms of international intervention, as it was a constituent part of the Republic of Serbia. The Ramboulet Accords, proposed in early 1998, were rejected by the Serb side not only it provided possibilities for Kosovo's secession, but also it infringed the sovereignty of Serbia itself

The official UN position, expressed in Resolution 1244 provides for:

Establishment of an interim administration for Kosovo as a part of the international civil presence under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, to be decided by the Security Council of the United Nations. The interim administration to provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo.

Possible developments

The Kosovo -- Montenegrin Seesaw

The complexity of the Balkan case is that there are several different cases, to which the principle of self-determination can be applicable, with its own peculiarities.

Kosovo is undoubtedly the current issue number one in the long list of Balkan troubles. Being part of Yugoslavia, the options for its status are--full independence, autonomy within Serbia, constituent republic within FRY. Currently, it is an international protectorate, governed by UN administration. The document that arranges its status internationally is the UN Resolution 1244, and the Military Technical Agreement between the International Security Force ("KFOR") and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia.

The experience of the Balkans indicates that the international community will not be inclined to grant the right to secession self-determination to any entity in the former Yugoslav, at least nominally. Kosovo has been provided with an opportunity for self-government and autonomy but no one has declared the right to secede from FRY or Serbia. Neither the Serbs from Kosovo will be allowed secession, the approach being some sort of consociational arrangement.

The second republic that constitutes the FR Yugoslavia is Montenegro. According to the constitution of FRY, it is a sovereign federal state, founded on the equality of citizens and the equality of its member republics. The territory of FRY is a single entity comprised by the territories of Serbia and Montenegro, its frontiers are inviolable and represents an economic area with a single market.²⁸

The independent policy led by President Djukanovic, threaten the very existence of FR Yugoslavia. For months the Montenegrin authorities has adopted measures that would provide for political, economic and financial, military emancipation of the state. Those policies, combined with the demonstrated ties with the West and the support for the Serbian opposition, risk open confrontation with Milosevic. Besides this menace, there are at least several other impediments to Montenegrin independence. The republic faces first internal conflict between supporters and opponents of rift with Serbia, and consequently it risks itself break-up between the Northern and the Southern part of the country. What concerns the international environment, the West is not inclined to support independence now as it prefers to have "an ally" within FRY and vests its hopes on Djukanovic as unifier of the Serbian opposition, and Russian geopolitical purposes will not allow independence either.

In the regional system Kosovo and Montenegro are in a specific kind of correlation. They both held the key of the future of FRY and hence to the regional security situation. The interconnectedness of Kosovo and Montenegro is twofold. One of the options for arranging the status of Kosovo is to establish the territory as a third, constituent republic in the federation. If Montenegro secedes from the union with Serbia, this will be the end of FRY and a federation between Serbia and Kosovo is virtually impossible.

Moreover, as a legal issue, it is a matter of the current constitution of FRY, where the Federal Assembly has to decide on the alteration of frontiers and the inclusion of other republics²⁹ --it is doubtful whether the current Assembly would agree on such arrangements.

On the other hand, international recognition of Kosovo's independence is going to further destabilize Serbia and exacerbate the rift within the existing federation.

The Bosnian Puzzle

The external borders of BiH had remained unchanged since it was recognized as an independent state in 1992, but the internal structure was constituted with the Dayton peace treaty o 1995. It is confederate structure with complex relations between the two entities and between different levels of government.

Bosnia and Herzegovina is an international quasi-protectorate, which status is legitimized by the Dayton Peace Accords.³⁰ The state consists of two entities--the Federation of Bosnia and Herzegovina and the Republika Srpska, but in fact³¹ the

three ethnic groups (or constituent nations) has kept the ethnic divisions intact in the institutional make-up of the state. In this regard, the state is like a puzzle, which is put in order by the international community and could be easily set apart, contested by the different ethnic groups.

If a process of frontier rearrangements occurs, Republika Srpska would be the first to break up and join Serbia, followed by the Croatian entities in the Federation of BiH.

Sandzak and Vojvodina

The region of Sandzak has been a concern for policy analysts, deemed as a potential spot of conflict. It is inhabited mostly by Muslim population, which has special historical and ethnic affiliation with the Bosniaks, and is often regarded and regards themselves Bosniaks. The political parties of the Sandzak Muslims are branches of the Bosnian Muslims parties, like the Party of Democratic Action. During the war in Bosnia and the Kosovo campaign they have suffered limitations of their rights and have raised a voice for autonomy and self-rule to the federal government and the governments of Serbia and Montenegro.

The region encompasses a territory, distributed almost evenly between Serbia and Montenegro, thus holding the pass between the two Yugoslav republics. The importance of this territory to Serbia and Montenegro would be the first obstacle to dealing with potential conflict, because neither Serbia nor Montenegro would agree upon partition of vital parts of their states. The second impediment is that in the light of recent experience, the international community does not have a solid ground for supporting self-determination/secession of a territory which did not enjoy previously a sort of autonomy.

Vojvodina is a different case, although it is largely populated by non-Serb population, the Hungarians being the most populous minority. The conflict factors have not combined in such a manner so to lead to violent clashes. Given the previous autonomous status of the Serbian province, comparable to that of Kosovo, it is likely that future aspirations of the minorities there will be directed to achieving certain benefits from the central authorities. As the conflict is there, but has not reached yet the point of no return, there is still time to introduce non-violent conflict management strategies, embodied on institutional solutions different from secession or partition.

Macedonia

Macedonia is contingent on the delicate balance in present Yugoslavia. The deterrence of Kosovo Albanians secession aspiration will provide time for the country to manage its own interethnic tensions between the Albanian minority and the Macedonian majority. The current leadership of the country includes one of the Albanian parties, but it is almost sure that more concessions, in terms of representation and participation in governance, will be required by the local Albanian community. Macedonia should be more adequately supported by the West, and its territorial integrity should be explicitly guaranteed.

Institutional Dimension of Imposing Solutions

'Weak states', democracy and self-determination

Self-determination, as a normative idea, is deemed as a predecessor and a counterpart of the democratization wave in global perspective. But in fact, self-determination in the international normative framework hardly prescribes the establishment of Western type of democracy, rather it reiterates the right of "peoples to freely determine" whatever political system they would introduce.

In the Balkans, the West-lead international community, acting through its institutions, has been persistent to fill in this gap. It endeavored to impose democratization in self-determining territories, starting from the EC Conference from 1991 to Dayton and Kosovo to the Stability Pact of 1999. Although, strictly speaking, this is in contradiction with the UN documents, the conflict resolution strategies in the backyard of the Euro-Atlantic space are bound to include 'democracy values'.

Democratization could be also a viable conflict solution, as it can more easily accommodate institutional forms of ethnic conflict management, different from secession as the farthest measure to be undertaken.

Any solution for preventing or managing conflict is to be implemented by some authority. In the international system, the primary subjects are states, which bear the responsibility to carry out international obligations. In the Balkans, ethnic conflicts are as a rule a conflict between a minority and the host-state, though not always the case. An important consideration should be the case when the state cannot perform, i.e. is a weak state.

A related term is 'soft-state' with weak or eroded (missing) civic identity, which cannot meet the requirement of granting state power through true popular vote. In short, this is the strength of a state, its ability to impose regulations, to monitor their implementation and if necessary to enforce them. This has been identified as a global security threat for the 21st century.³² In case of considerable weakness of the state or even lack of state and its institutions, the international community has resorted not only to peacekeeping, but also to overall administering of states and territories. They have engaged themselves in fact in state-building efforts, trying to establish at least a minimum of state infrastructure.

State-building efforts on behalf of the international community are narrowed down not to establishing any sort of self-government, but to democratic regimes. The 'democratization strategy' seems somewhat taken for granted, after ten years of post-communist transitions to liberal democracy, when there is hardly anyone in former communist countries who upholds the opposite stand. Nationalists of diverse caliber are no exception.

In order to deter conflict resurgence the international community has resorted not only to peace-keeping but also to the establishment of dependent states and territories, with international administrations with the task to build-up local transition authorities as a first step. Subsequently, the steps are to include the granting the right to exercise in full self-determination to these 'entities', be it in the form of independence or some sort autonomy and self-governance.

Protectorates and trust territories

Imposing international administrations bears a resemblance in the Mandate system of the League of Nations and the Trusteeship system of the United Nations. After World War I the League transferred the colonies of the defeated empires to be ruled by victor states. After World War II, the Mandate territories were handled by a specially designed organ of the UN--the Trusteeship Council--under the special provisions of the UN Charter.

Article 76 of the Charter outlined the objectives of the system, saying that it would further international peace and security and promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence. This system had been established to put an end to the colonial system, and just recently finished its activities.

Out of three current UN peacekeeping missions in the Balkans, two has the task to actually govern their territories.³³ The case of BiH is not so clear, because there it is recognized independent state, member of the United Nations. Although there are formally acting Constitution and government institutions, the actual decision-making is vested to the UN High Representative for Civil Affairs who is the supreme arbiter. The Dayton Peace Treaty, Annex 10: Agreement on Civilian Implementation of the Peace Settlement, Article V Final Authority to Interpret: "The High Representative is the final authority in theater regarding interpretation of this Agreement on the civilian implementation of the peace settlement." Even more broad is the UNMIK's (United Nations Interim Administration in Kosovo) mandate, introduced by the UN Resolution 1244 and the subsequent documents.³⁴

The comparison to the trusteeship system and protectorates bears negative connotations, and is not fitting into the UN regulations. Though, observers describing the actual situation commonly refer it to. It is a necessary stage in building security in the troubled Balkans.

The regional implications are that this state of affairs has in fact introduced a "protectorate system" in the Balkans, which is dependent on ongoing international delivery of humanitarian aid, financial resources, security, etc. There are two considerations, ensuing from the present system. The first one is that Bosnia and Kosovo are interrelated, as in terms of the prestige of the international community, i.e. it has to prove its capacity to achieve its goals, because failure of one of the missions will have repercussions in the situation of the other. The second consideration is that the behavior of protectorate system affects and will affect the broader regional system. The present status of BiH and Kosovo has been determined by the international community, but external dependence is restricted in time so they will have to "self-determine themselves" sooner or later.

Security implications

International post-World War II order has been mastered through the normative regulations of the UN charter, especially the principle of territorial sovereignty, enshrined in Chapter II, Article 4, stating that:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Challenges to this principle are regarded as threats to international peace and are also codified in basic documents of regional organizations such as the Helsinki Principles of the OSCE. The global changes occurring in the international system are limiting more and more state sovereignty. International intervention, as stipulated in UN Chapter VII, is grounded on human rights' violations concerns, related to the right to self-determination.

Self-determination could be called upon when renegotiating the status of the underrepresented or oppressed group, be it an ethnic group, nation or a population of a territory. This principle, albeit just in its essence, proves to be a serious challenge to international order and peace.

The international community has been challenged several times by recurring Balkan crises in terms of balancing between these and related norms through solutions that accommodate more or less the claims of all parties involved and at the same time avoiding major disturbances in the international order.

There are several dimensions of the impact of the right to self-determination, posing threats to security.³⁵ They are:

1. spill-over of the conflict or domino effect;
2. Balkanization, i.e. fragmentation of states into small, hostile units;
3. "trapped minorities" within newly established entities (i.e. the current situation of Serbs in Kosovo);
4. the danger to a democratic process, challenged by undemocratic minorities, aiming disintegration of the given host-state;
5. the establishment of too small, non-viable entities, which would require constant international aid;
6. recent experience from Kosovo has posed another grave, 'soft-security' threat - the fear of establishing *de facto* of a criminal state, which not only cannot control but rather generates criminality.

The measures undertaken by the international community for managing these problems are diverse, and as the Stability Pact for Southeastern Europe indents, all-embracing and integrated set of strategies. However, there are four pillars of the conflict management strategy so far: delimiting fragmentation to previously existing administrative units, requiring strict human rights regulations, imposing order by establishing international protectorates or semi-protectorates. The "last pillar", rather a desire, is the basis of all long-term strategies of the West to sustain solutions for the Balkans. This is democratization, with a special focus on Serbia. The premise is that a democratic Serbia, and any democratic society would match perfectly their goals.

The problem of this approach is that "democratization of Serbia" is understood as "Serbia without Milosevic". No one amongst the "champions of democracy"--the Serbian opposition leaders, the Montenegrin government, the former KLA leaders--has really proved that is adherent of functioning, Western type of democracy. The best that has been achieved or would be achieved is introduction of democratic institutions and political process, but that will be unlikely to go beyond formal procedures, like holding elections and the like.

Democratization as a grand strategy is sound enough, at least in the long run, but in the short and medium term policy actions should be congruent with the objective of avoiding the above mentioned security threats.

- Limiting (or delaying the claims to) the right for self-determination to self-rule, not to secession and independence, thus
- Avoiding inducement of similar claims among various minorities, entities, etc. and thus
- Preventing further fragmentation, and change of borders;
- Requiring, throughout the region, and imposing, in the current international protectorates, rule of law and the infrastructure of a 'strong' state.

An important element of conflict management strategies in this case is timing. The international actors should indicate clearly their long-term involvement and objectives. It will take several decades for international (NATO) military presence and administration to deter and build a long lasting peace in the region. The UN/NATO forces in Bosnia have been on the ground for five years already with no significant achievements that would guarantee that the state would not fall apart after their withdrawal.

Before providing the right to self-determination, the international community has first to make sure that there is an adequate institutional level (infrastructure of a state) attained in a given unit, claiming such a right. Otherwise, the international actors will face an ongoing process of evolvment of smaller and smaller political units ("Balkanization" proper), inimical to each other and uncontrollable by international norms. The lack of resources to manage these units has only one alternative--to work with political units, which has the capacity to carry out adequate policy decisions.

CRIMINALIZATION OF ALBANIAN COMMUNITIES AND REGIONAL DEVELOPMENT IN SEE

Draft May 7, 2000

Growing mass criminalization of Albanian communities in Albania, Kosovo and Macedonia poses a direct threat to regional security and sets serious obstacles to regional reconstruction efforts. Albanian mafia groups, organized in typical-Albanian social and cultural structures gain more and more power from operating freely in three different countries, taking advantage of the weak states of Albania and Macedonia and the inability of the international "transitional" administration of Kosovo to enforce law and order. The observed mass criminalization of Albanian communities

and the expansion of organized crime through developing powerful regional networks currently hinders the process of reconstruction and development of South Eastern Europe and will complicate the future enlargement of the European Union towards this end of Europe.

Decreasing wide spread criminalization in the Balkans should become a main objective in implementing reconstruction and development policies for the region. There have been considerations for tapping this negative phenomenon, mainly along the lines of the Stability Pact for South Eastern Europe, which have not yet produced expected results.

1. Social Reorganization of Albanian Communities

1.1. Migration and Urbanization.

For the past ten years, Albanians have followed a pattern of mass migration to cities looking for better economic opportunities. The crises in Kosovo and blood feuds between clans in Albania reinforced the process by destroying rural settlements and providing new means for survival, mainly humanitarian aid and involvement in intensive trafficking of drugs, arms and people³⁶. Demographic changes in areas populated by Albanians and the recent international intervention in Kosovo have made it impossible to keep track of the redistribution of Albanians in Albania, Macedonia and Kosovo. Most of the movements have been towards small towns, thus leading to ruralization of town rather than urbanization of villages. The main reason for this process is determined by the fact that excessive accumulation of population in cities has raised social and psychological issues of shock adaptation. Combined with quests for alternative means for survival, this process have resulted in criminalization of large groups of Albanians in Albania, Kosovo and Macedonia.

The absence of powerful state institutions capable of maintaining legal order and applying sanctions led to establishing of Albanian mafia groups, which provide well paying jobs for an increasing number of Albanians³⁷.

1.2. Crises Of Statehood And Power Vacuum.

Transition processes and the weakness of state institutions, which followed long authoritarian rule, revived Albanian social organization models of extended families and clans and medieval power patterns. Well-organized gangs, mainly from North Albania took advantage of the weakened Yugoslav grasp on Kosovo and in recent years successfully filled the power vacuum.

In neighboring North Western Macedonia, the government has failed to enforce laws and legal order or conduct administrative activities, leaving room for power consolidation of ethnic Albanian political parties. Local reports say that in order to find jobs ethnic Albanians must hold membership in the Democratic Party of Albanians (DPA)³⁸. This party is considered to have the power of decision-making and holding quasi-administrative functions in this part of Macedonia and being the only entity in control of Macedonia's state borders with Albania and Kosovo.

One of the major outcomes of the international intervention in Kosovo - the lack of government control over state borders, has facilitated the spread of Albanian gangs

and well-coordinated activity on the territories of three different countries. Albanian leaders also take advantage of the absence of the state and its functions in all the aforementioned territories and act as a substitute - they organize order, enforce customs and rules, organize sanctions and fines, and guide both economic and political events.

1.3. Revival Of The Clan System.

Albanian mafia is recognized as one of the most powerful drug and arms mafias worldwide, primarily due to its clan-like organization, loyal and well integrated members. Reports show that such groups have reproduced ancient moral codes and ethics (kanun) which ensure the unity of the group and provide for sticking to the group interest. A typical act of enforcing the kanun is the blood vendetta, serving as a punishment for offending the dignity of a clan member or undermining the authority of a leader. A potential target could be any member of the clan whose representative did the offense³⁹. The integrity of the clan organization of Albanian communities is based upon a specific set of values and expanding networks of family members and relatives. The traditional cultural inability to separate rational from emotional choices, combined with a number of inbred beliefs, have made it impossible for a large number of Albanians to make the distinction between crime and patriotism. In many occasions, such sentiments are abused by chiefs of organized crime groups for effective maintenance of the unity of the group and secure incorporation of new members. As a result of this internal integrity, Albanian mafia has taken a leading position on the international arena in recent years.

2. Albanian Organized Crime

2.1. The Balkan Route.

The increasing criminalization of Albanians has reinforced the Albanian gangs' key position on the Balkan Route of heroin. The Balkan Route, being a major channel of drug trafficking to Western Europe, has developed into a whole infrastructure corridor. Along the corridor, there are a number of dispatcher points, local organized groups, transportation and drug processing facilities. Official reports recently confirm that Albanians have pushed away Turkish gangs in trafficking heroin from the Middle East to Western Europe⁴⁰. They have consolidated their stand in the business by linking directly to Georgian and Armenian drug mafia, which generate almost all of the traffic of drugs from Asia to Western Europe. Having Albanians as an option, Armenians and Georgians have ceased their partnership with Turkish gangs, due to historic and cultural feuds.

2.2. Transborder Expansion.

The inclusion of more and more Albanians in organized crime is also a result of the expansion of Albanian gangs on the "free-of-law" territories of Kosovo, Western Macedonia and Albania. The internal growth of Albanian mafia groups and recent events in Kosovo contributed to a different redistribution of illegal earnings. In the eve of the Kosovo crises, drugs were usually traded for arms, Albanians abroad organized serious fundraising activities in Western Europe, US and Australia, and some sympathetic governments financially supported the Kosovo liberation

movement⁴¹. UN experts predicted that in 2000 drug crops in Afghanistan will be twice higher than 1999, which may lead to mobilization of additional resources for trafficking to Western Europe. That may cause additional criminalization among Albanians, who are the main players on the Balkan Route⁴².

3. International Contributions To Criminalization

3.1. Inability To Enforce Rule Of Law.

Besides the internal factors stimulating the phenomenon of mass criminalization of Albanians, there are certain external factors leading to the same results. Most of these come from the international intervention in the Kosovo crises of 1999 and the proliferation of semi-protectorates in the Albanian populated areas.

Contrary to the initial expectations and goals of the intervention, the international institutions have failed so far to overcome the chaos in Kosovo. The underlying well-organized and efficient criminal structures will hamper any outside attempt at restoring order and law. The existence of criminalized clan groups will most definitely confront the establishment of functioning democratic institutions and viable economic policies.

The international administration of Kosovo has been based upon the cooperation between three entities - the United Nations (UN) through the United Nations Mission to Kosovo (UNMIK); KFOR (Including NATO and Russian troops) and the Organization for Security and Cooperation in Europe (OSCE)⁴³. UNMIK's mission is to launch transitional administration and normalize political and economic process, KFOR is in charge of preventing armed conflict and guaranteeing general security and OSCE is in charge of organizing elections, supporting independent media and durable democratic system.

UNMIK, KFOR and OSCE on many occasions have failed to act in cooperation and coordination among themselves, not to mention local entities. The international efforts in Kosovo have failed to restore order and apply simple rules for operation. Some of the most pressing issues, like issuing of ID documents, which are rare among Albanians will be difficult to solve, since the authorized government to do that is in Belgrade. The absence of laws, court system, police force and normal political and economic development supports the further expansion of Albanian organized crime and encourages similar developments in Macedonia. Gangs in fact act under the umbrella of the international administration and take advantage of the chaos⁴⁴.

3.2. Foreign Aid.

International humanitarian aid, which among other things have been a driving motive for migration of Albanians, is reportedly used as a supplement to immigrant remittances and criminal earnings, amounting to income which is more attractive than wages from usual economic activities⁴⁵. Since there is no clear information about the number of Albanians in different areas, there are doubts that aid is also misappropriated and traded at black markets. It seems that humanitarian aid paradoxically is turning into one of the obstacles to normalization of economic activities. There is a similar situation in Western Macedonia where a great number of people still live primarily on humanitarian aid.

International institutions have just started to acknowledge that aid money could have a demoralizing effect on local level and directly stimulate organized crime⁴⁶. There are many conditions for the positive effect of foreign aid to be easily undermined by corruption and ineffectiveness of the domestic institutions and criminalized public administration, a direct consequence of malfunctioning states and disintegrating societies⁴⁷.

4. Balkan Reconstruction and Decriminalization

Programs and policies of the international community for reconstruction and development of the Balkan region should consider a number of measures for decriminalization of Albanian communities and preventing the spread of the phenomena. The international community has offered a plan of measures in this respect, as part of the Stability Pact for South Eastern Europe and several policy recommendations developed by the Center for European Policy Studies.

4.1. Stability Pact Provisions

Following the Regional Funding Conference in Brussels in late March, it became clear that the initial expectations for balanced financial approach within the three working tables did not happen. Besides the scarcity of the funds, hardly even reaching levels of EUR 2 billion, the donor conference allocated most of the funds to the Second Table along infrastructure projects. At the same time, not enough funds were allocated to empower procedures and mechanisms for meeting the goal of the First and the Third Tables, within whose priorities are fighting corruption and criminalization and generally sustaining regional security. All the funds that were allocated for Stability Pact projects, given the current institutional framework and capabilities of states in the region, will be utilized and appropriated at very low levels.

The successful implementation of the Stability Pact requires coordinated efforts to help local societies refashion states and re-invent democracies. In order to be effective, international contributions should be supported by a favorable institutional environment. From an institutional point of view, SEE states represent weak countries. Their weakness is considered to constitute the major cause of regional insecurity and lack of stability⁴⁸. In order to avoid the long-term projection of this negative factor reconstruction efforts should be focused on several issues which hold a strategic importance for the region in short and medium terms.

Alongside Working Table 1 of the Stability Pact special attention and direct support should be paid to several components governance, local democracy and education. Supporting sound and good governance is one of the primary objectives in the process of decriminalization. In the Balkans, states maintain inefficient institutions, unable or unwilling to enforce the rule of law or to implement consistent policies. Levels of tax collection are low and institutions are unable to deliver public goods and services. Some states are weaker than others, but in all cases it is clear that the state has failed to offer security and development. The proliferation of para-military groups and high levels of crime and corruption are among the usual results of the dysfunction of public institutions. Stability Pact task forces on good governance though should not be focused on establishing respect for human rights⁴⁹ but emphasis should be put on rationalizing public administration, promoting transparency and accountability of

public institutions. Successful efforts in this respect will restrict the mass character of criminalization and will provide necessary conditions for fighting the phenomenon. Supporting local democracy and education reform initiatives will in to a certain extend complimentary to the efforts for establishing good governance.

The Working Table on Security is essential for the development of effective decriminalization measures. Adopting a set of legal instruments for fighting organized crime and corruption is of utmost importance, especially for the Western Balkans⁵⁰. The Pact should support a proactive strategy for regional efforts and initiatives in fighting organized crime, since the phenomenon is regional than country specific. Enhancing the quality and efficiency of the police and judicial systems in the Western Balkans is only possible after implementing entire packages of strategic measures for state building and consolidation.

4.2. Customs Union

Corruption and criminalization - wide spread phenomena in SEE countries -- have grown to become major means of conducting politics and doing business. In addition to the traditional distorted distribution of internal resources and the draining of national economies, a relatively new approach to misusing international goods and cash flow generated by international trade has gained ground. Often, customs revenues are used as a source of financing not only for organized crime groups but also political parties and elites.

The suggestion for a customs union in the Balkans⁵¹ and abolishing tariffs in order to reduce organized crime will inevitably decrease on the other hand the countries' fresh cash revenues. CEPS suggests that the EU should cover the loss of trade tariffs (only in trade with the EU) since the accession policies envisions abolition of such tariffs in the future for Balkan countries which will join the Union. In the short term, a customs union will seriously destabilize the weak states even more, and on the other hand organized crime groups might easily try to compensate the loss of such revenue through equally illegal means, like burglary, for instance.

5. Concluding Remarks

Organized crime and corruption, involving broad sections of the population support the growing wave of criminalization. The viability of this process is caused not so much by assumptions for state or official support and sponsoring but it is rather a result of social and cultural phenomena. Recently a process of great concern is the affiliation of organized crime with political structures - typical for the entire area of the Balkans. Recently local opposition media in Macedonia alleged DPA and its leader Arben Xhafferi to be in charge of 70% of the organized crime⁵². There is a clear tendency of participation of governments in the trafficking through the national territory, used as a main source of financing.

It is not very likely that any regional reconstruction initiative will succeed in the context of growing criminalization and the steady political regime in Belgrade. Recommendation on behalf of the international community for united efforts of Balkans states to stop criminalization will not give expected results. So far, the international community has failed in its intentions to bring stability and security and

the individual countries in the region do not have the resources to initiate effective regional cooperation. On the other hand, organized crime groups operate in perfect regional syndicates, despite of ethnic, religious or cultural differences.

Criminalization, seen as one of the main obstacles for regional reconstruction and development, is targeted by a package of provisions within the Stability Pact, as well as by other entities. All the measures and strategies though are rather piecemeal, and have received no serious financial support from the donor countries and organizations. Another problem in this respect is the lack of overall vision about possible ways of reducing criminalizations. The relatively stable countries in the region form the so called *cordone sanitaire* around Former Yugoslavia are in an extremely vulnerable situation, serving as a buffer zone. Instead of influencing positive developments, these countries face a future of bad economic conditions and low standards of living which can only reinforce negative events and expand criminalization, political and social stagnation beyond the Albanian-populated areas.

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13. **UN Resolution Adopted By The General Assembly 1514 (Xv).** Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960.

14. CCSE, Helsinki Final Act (1975). **1. (a) Declaration on Principles Guiding Relations between Participating States.** The ten principles are *I. Sovereign equality, respect for the rights inherent in sovereignty; II. Refraining from the threat or use of force; III. Inviolability of frontiers; IV. Territorial integrity of States; V. Peaceful settlement of disputes; VI. Non-intervention in internal affairs; VII. Respect for human rights and fundamental freedoms, including the freedom of thought,*

conscience, religion or belief ; VIII. Equal rights and self-determination of peoples; IX. Cooperation among States X. Fulfilment in good faith of obligations under international law. Principle VIII. Equal rights and self-determination of peoples says that:

The participating States will respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States.

By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.

The participating States reaffirm the universal significance of respect for and effective exercise of equal rights and self-determination of peoples for the development of friendly relations among themselves as among all States; they also recall the importance of the elimination of any form of violation of this principle.

15. In Ernest Gellner. Nations and Nationalism. Oxford: Basil Blackwell, 1983.

16. See John Coakley (1992) "The Resolution of Ethnic Conflict: Towards a Typology." In *International Political Science Review* (1992), vol. 13, №4. 343-358.

17. Paris Charter of the OSCE (1990).

18. John MacGarry and Brendan O'Leary (eds.) "The Macro-political Regulation of Ethnic Conflict." In *The Politics of Ethnic Conflict Resolution*. (Routledge: London-New York, 1993.) p. 14

19. Understood here not only in numerical terms, but rather as a group with limited access to power, economy, etc. or underrepresented in state governance,

20. Veljko Vujacic." Institutional Origins of Contemporary Serbian Nationalism." In *East European Constitutional Review*, Vol.5, №4, fall 1996.

21. Constitution of Serbia . VI Territorial organisation. The autonomous province of Vojvodina and the autonomous Province of Kosovo and Metohia

22. Susan Woodward. *Balkan Tragedy*. (The Brookings Institution: Washington DC, 1995), pp. 212-213.

23. See Susan Woodward, *Balkan Tragedy*. (The Brookings Institution: Washington DC, 1995)

24. Susan Woodward, *Balkan Tragedy*. (The Brookings Institution: Washington DC, 1995)

25. The Chamber cannot disregard the principle of *uti possidetis juris*, the application of which gives rise to this respect for intangibility of frontiers. It is a principle of general scope, logically connected with the phenomenon of the obtaining of independence, wherever it occurs. Its obvious purpose is to prevent the independence and stability of new States being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power. The fact that the new African States have respected the territorial *status quo* which existed when they obtained independence must therefore be seen not as a mere practice but as the application in Africa of a rule of general scope which is firmly established in

matters of decolonization; and the Chamber does not find it necessary to demonstrate this for the purposes of the case.

26. Opinions of the Arbitration Committee. Opinion №2.

27. Susan Woodward. *Balkan Tragedy*. (The Brookings Institution: Washington DC, 1995).

28. Constitution of the Federal Republic of Yugoslavia (April 1992) stipulates in Section I, Basic Provisions, Article 1: "The Federal Republic of Yugoslavia shall be a sovereign federal state, founded on the equality of citizens and the equality of its member republics." Article 2: "The Federal Republic of Yugoslavia shall be composed of the Republic of Serbia and the Republic of Montenegro. The Federal Republic of Yugoslavia may be joined by other member republics, in accordance with the present Constitution." And Article 3: "The territory of the Federal Republic of Yugoslavia shall be a single entity comprising the territories of the member republics. The frontiers of the Federal Republic of Yugoslavia shall be inviolable. The boundaries between member republics may be changed only subject to their agreement, in accordance with the constitutions of the member republics." 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 13: "The Federal Republic of Yugoslavia shall constitute a single economic area having a single market."

29. SECTION V: ORGANS OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

1. 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.

30. **1. Continuation.** The Republic of Bosnia and Herzegovina, the official name of which shall henceforth be "Bosnia and Herzegovina," shall continue its legal existence under international law as a state, with its internal structure modified as provided herein and with its present internationally recognized borders. It shall remain a Member State of the United Nations and may as Bosnia and Herzegovina maintain or apply for membership in organizations within the United Nations system and other international organizations. **3. Composition.** Bosnia and Herzegovina shall consist of the two Entities, the Federation of Bosnia and Herzegovina and the Republika Srpska (hereinafter "the Entities").

31. "[T]oday Bosnia and Herzegovina has three *de facto* mono-ethnic entities, three separate armies, three separate police forces, and a national government that exists mostly on paper and operates at the mercy of the entities. political power is concentrated largely in the hands of hard line nationalists determined to obstruct international efforts to advance the peace process. The effect has been to cement wartime ethnic cleansing and maintain ethnic cleansers in power within mono-ethnic political frameworks. The few successes of Dayton – the Central Bank, a common currency, common license plates, state symbols and customs reforms – are superficial and were imposed by the international community. Indeed, the only unqualified

success has been the four-year absence of armed conflict. Ominously, in the past, many local politicians have channelled this unrest into nationalism.

32. See Gwyn Prins. "Security challenges for the 21st century." NATO Review: WEBEDITION, №1 - Jan. 1997, Vol. 45 - pp. 27-30.

33. The United Nations Mission of Observers in Prevlaka (UNMOP) monitors the demilitarization of the Prevlaka peninsula and of the neighbouring areas in Croatia and the Federal Republic of Yugoslavia.

34. On the Authority of the Interim Administration in Kosovo. UNMIK/reg/1999/1; 25 July 1999; Regulation no. 1999/1

35. See also Alexis Heraclides, "The International Normative Framework." In *The Self-determination of Minorities in International Politics*. (London: Frank Cass, 1992) p.28

36. Aim Press correspondent in Pristina Fehim Rexhepi noted in an article dated July 20, 1999, that one of the strongest motives for migration of the rural Albanian population to towns is the scarcity of foreign aid in villages.

37. The actual situation in Kosovo in 1999 in terms of order and legality has worsened after the withdrawal of Serbian authorities, providing room for unsanctioned functioning of mafia groups. Kosovo has been in a similar state even before this year due to the inability of Belgrade to tighten control over the province. See: Julius Strauss, *The Telegraph* (UK), September 5, 1999.

38. Kim Mehmeti. *Pyramidal System of Values*, AIM Skopje, 17 April, 1997.

39. The 15th century kanun (code) of Lek Dukagjini, Lord of Dagmo and Zadrima regulates revenge killings to preserve the honor of the clan. His intention was to limit the cycles of bloodletting among the mountain tribes which sometimes destroyed entire communities by enabling a council of tribal elders to arrange a besa, or truce once honour had been obtained. or fis has been revived in northern Albania since the demise of communism. Enver Hoxha's regime suppressed the kanun but the privatisation of land, which reopened ancient disputes, and the breakdown of law and order last year, when Albania's armouries were looted, have encouraged direct retribution. The code doesn't allow women to be killed, but there have been cases in Tropoje [on the Kosovo border], where women have been forced into hiding by death threats. See Owen Bowcott, *Thousands of Albanian children in hiding to escape blood feuds*, *The Guardian* 30th September 1998;.

40. 1999 Report of the Interpol and the 1999 annual report of the International Narcotics Control Board (INCB).

41. Fund-raising efforts of Kosovars in the United States, as well as those of Albania immigrants in Europe, have increased steadily over the past few years. According to diplomatic and other observers with experience in the region, the money thus assembled has helped the rebels get arms and smuggle them into Kosovo over routes through Albania, Macedonia and Montenegro. Supporters of the Kosovo rebels have set up a fund, "Home Land Calling," which has a bank account at People's Bank in Bridgeport, Conn. KLA supporters in Europe have set up "Home Land Calling" accounts in Sweden, Italy, Belgium and Canada. The bank names and account numbers are advertised in Albanian newspapers printed in Europe. See: *Albanian Americans Funding Rebels' Cause* by Stacy Sullivan, *The Washington Post* Tuesday, May 26, 1998;

42. The National Agency for Fighting Organized Crime (NAFOC) reported in February, 2000 that illegal drug traffic has undergone a sharp increase over the past couple of months. NAFOC chief Gen Kiril Radev said Bulgaria has confiscated 104 kg of heroin – the amount of all confiscated heroin for 1999, only in two months in 2000. See press – mvr.bg-

43. In accordance with RESOLUTION 1244 (1999) adopted by the UN Security Council at its 4011th meeting, on 10 June 1999(see annex 2)

44. See: *Fehim Rexhepi (AIM Pristina), Challenge for KFOR, 20 July 1999.*

45. Here is a very interesting account by an Albanian journalist on the issue:” Paradoxically Albania still has the strongest currency in all Eastern Europe. Albanian currency "lek" is almost stable and the inflation in levels close to zero, not much due to the applied economic policy, than the fact that the country gets \$1 million per day from the immigrants remittances, of nearly 500,000 immigrants who work in Greece and Italy and also considerable amount of hard currency circulate in the country due to the illegal traffics of drugs, prostitutes, stolen cars etc. *Remzi Lani (AIM-Tirana) Albania - Nine Years After.*

46. The Stability Pact for South Eastern Europe: From Expectations to Shortcomings, IRIS, 2000.

47. Around the Regional Donors’ Conference of the Stability Pact for South Eastern Europe, held in late March, 2000 in Brussels, some EU officials admitted about the “demoralizing effect” of foreign aid in some cases when it fuels corruption and stimulates organized crime.

48. Latest reports on the situation in SEE underline the fact that the increased level of insecurity in the region is best explained and confronted in terms of the "weak state" – see Human Security in Southeast Europe - Special report commissioned by UNDP

49. Report on the achievements of the Stability Pact – Working Table on Democratization and Human Rights, IRIS Papers, April, 2000.

50. The sub-table on Justice and Home Affairs within the Third Working Table of the Stability Pact has suggested to accede to the Council of Europe’s legal instruments, mainly the Convention on Laundering, Seizure and Confiscation of Proceeds from Crime and the Criminal and Civil Law Conventions on Corruption. IRIS Papers – Reports on the Achievements of the Stability Pact, April, 2000.

51. Gros, Daniel, An Economic System for Post War South Eastern Europe, CEPS Paper, June 25, 1999.

52. Dnevnik Daily in Internet – dnevnik.com.mk/archives