

Human and Minority Rights in the Life-Cycle of Ethnic Conflicts

**Conflict settlement in the Former Yugoslavia:
The Role of Serbia in the Peace Building Process**

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1. The Role of Serbia in the Yugoslav Crisis

The Yugoslav crisis commenced in the era of collapse of real-socialist regimes in Eastern Europe. With communist ideology stepping back and giving way to nationalism, further decentralisation of an already highly decentralized multinational state was imminent, leading to its transformation into a confederation or to its final disintegration. While other Yugoslav nations were developing their plans of building independent nation-states, the Serbian people was chasing their goal of preserving Yugoslavia, what was presented by the Milošević regime as the only reasonable solution of Serbian national ideal of all Serbs living together in a single state.

Serbian ethno-nationalism was rooted in unresolved questions of the unequal status of the Republic of Serbia within the Yugoslav federation (as Serbia was practically a federation within federation while other republics were highly centralized) as well as of the status of the Serbian people in the republics (and provinces) other than Serbia proper. These problems, as well as historical traumas scattered especially among the Serbs outside Serbia, were systematically abused by Serbian conservative Communist Party leadership in order to preserve not only Yugoslavia as the only option for Serbs to live in one state, but the Communist system as such.

In its beginning, the ethnic mobilization in Serbia was highly based on the Kosovo problem and the secessionist aspirations of the Albanian majority. However, after completing the constitutional changes at the beginning of the nineties through which the two Serbian provinces lost their autonomy, Serbian authorities turned their eye on other parts of Yugoslavia where a significant number of Serb population lived. After constitutional consolidation and centralization of the "mother-state" was concluded, the time had come for the consolidation of the Serbian people as a whole.

Powerful propaganda enforced by the strictly controlled media, nationalistically oriented intellectual elites, the Church and the Army gave their significant contribution to spreading the fear and aggression that led to the outbreak of the bloody war in the Balkans.

2. Domestic Attempts at Conflict-Management

2.1. Negotiations among Domestic Actors

The initial attempts to prevent the conflicts in Croatia and Bosnia were made in 1991. At the beginning, conflicting parties used constitutional mechanisms of

the federation in their mild efforts to find the solution for the problems, mainly through the regular sessions of the Federal Executive Council (Savezno izvršno veće - SIV), and of the Presidency of the SFRY. Soon it became clear that these meetings did not give any results. One of the main reasons was that the members of the Yugoslav "collective head of state" were only associates of the much more influential presidents of the six Yugoslav republics. At first, presidents of the republics took their part in the sessions of Presidency, but soon completely took control over negotiations and excluded the Presidency from further efforts to find the solution. This was logical step forward due to the complete loss of legitimacy and influence of federal organs in opening months of the crisis.¹ On the other hand, presidents of the republics derived their great authority from the fact that they were elected on the more or less free democratic elections, directly or through the parliaments of the republics.

The meetings of the presidents of the republics were held on weekly basis, but did not give any significant results.² The only formal proposition for the resolution of the crisis was given by the presidents of Macedonia and Bosnia and Herzegovina, Kiro Gligorov and Alija Izetbegović, submitted on the last meeting held in Sarajevo. This document, known as the Gligorov-Izetbegović Platform, provided that Yugoslavia should be reorganized as some sort of an asymmetric federation. While Serbia, Montenegro, Macedonia and Bosnia and Herzegovina would be in more or less conventional federal relations, Croatia and Slovenia would form some sort of confederation with the rest of the state. However, some important competencies would stay on federal level, including defence, security and certain aspects of monetary policy.

Although this document provided a balanced solution, it was highly unrealistic expect it to be accepted by all actors and, in the words of some of them, could be regarded only as the "temporal stage in the process of dissolution".³ It is very difficult to determine what was the true position of the Milošević regime toward this Platform. According to Momir Bulatović, then President of Montenegro and close associate of Slobodan Milošević, the Serbian (and Montenegrin) regime held that it was acceptable at least as a good starting point for further negotiations.⁴ However, many characteristics of the Platform were not consistent with major Milošević's aspirations. First of all, Croatia would not be a part of the federal state, and confederation was not held as an

¹ The Serbian side played a major role in this. By pushing constitutional changes in 1989, by which Serbian provinces lost their autonomy within Serbia, the Milošević regime took control over two additional seats in the Yugoslav Presidency which formally still were held by representatives of Kosovo and Vojvodina. With the support of the Montenegrin representative, Serbia alone held 4 of 8 votes in the Presidency. That completely paralysed its work.

² The first meeting was held in Split (Croatia) on 28 March 1991, and the last one in Sarajevo on 6 June 1991. In the meantime, the crisis in Croatia escalated.

³ Interview with Milan Kučan for the TV Documentary "The Witnesses of Dissolution", available on http://www.danas.org/svjedoci/html/Milan_Kucan.html

⁴ Momir Bulatović, *ICTY vs. Milošević, The Unspoken Defence (ICTY protiv Miloševića, Neizgovorena odbrana)*, (Zoograf-Etra, Niš, Podgorica, 2006), p. 79-81.

adequate solution from the Serbian point of view in previous negotiations because of the interest of the Serbian people in Croatia to live in “one state” with the rest of Yugoslav Serbs. The precariousness of the solution was the second major shortcoming. However, Croatian and Slovenian presidents formally rejected the Platform, as they held that leaving matters of defence and security in the competencies of the state union was unacceptable. It should be noted that at the time of the announcement of this document both Slovenia and Croatia already had had positive results in referendums on independence, and embarked on their preparations for formal declarations of independence. In addition, armed conflict had already started in Croatia.

With the outbreak of hostilities, the Croatian and Slovenian representatives stepped out from negotiations, but negotiations with and within Bosnia and Herzegovina intensified. Initiators of this undertaking were Adil Zulfirkarpašić and Muhamed Filipović, close associates of the President of Bosnia and Herzegovina, Alija Izetbegović. However, negotiations soon lost support of Izetbegović,⁵ and the document known as the “Belgrade Initiative” had been adopted solely by Serbian representatives from Bosnia and Herzegovina,⁶ Government of Serbia and representatives of federal institutions dominated by Serbs.

The main characteristic of the agreement was the preservation of the federal model of the state union of three republics – Serbia, Montenegro and Bosnia and Herzegovina. It was built on the foundations of the previous Gligorov-Izetbegović Platform, but without confederal elements that became unnecessary since Croatia and Slovenia had already gained their complete (although not internationally recognized) independence.

The negotiations and subsequent agreement between the representatives of the Muslim and Serbian population of Bosnia and Herzegovina and the Serbian authorities had no chance of success simply because they had excluded Croats in Bosnia and Herzegovina from the negotiation process regardless of the fact that they were the third major party in the crisis. Concerning that the war already raged between Serbs (and Yugoslavia) and Croats, it was only a matter of time when it would spill over to Bosnian territory, as both Serbian and Croatian governments had decisive influence over the Serbs and Croats in BH, respectively, and clear territorial aspirations toward Bosnia. However, Serbian

⁵ According to Izetbegović, the agreement represented the instalment of the “incomplete Yugoslavia” with Milošević as its true leader, and Karadžić as the leader of entire BH. See interview with Alija Izetbegović for the TV Documentary “The Witnesses of Dissolution”, available on http://www.danas.org/svjedoci/html/Alija_Izetbegović.html

⁶ It should be noted that these Serbian representatives held official posts in the Bosnian Government. Namely, Biljana Plavšić and Nikola Koljević were members of the Presidency of BH while Momčilo Krajišnik was President of the Assembly of Bosnia and Herzegovina. This was used to give full legality of the adopted document.

territorial ambitions in Bosnia were disguised by the desire for the preservation of Yugoslavia.

In the early nineties Kosovo was not the subject of any serious internal negotiations. After the abolition of Kosovo's autonomy and the instalment of Kosovo leadership loyal to Milošević, Serbia made it impossible for Albanians to be heard. However, it is worth to mention few lonely efforts made by Milan Panić, then Prime Minister of Federal Republic of Yugoslavia. In circles of foreign political analysts year 1992 regarding Serbia was often referred to as the 'Panić Interlude'.

Milan Panić is American businessman of Serbian origin who has established himself as a CEO of ICN Pharmaceuticals company in the USA. When he returned to Yugoslavia to buy Galenika - Yugoslav biggest pharmaceutical company, he was approached by Slobodan Milošević, President of Serbia at the time, to become first Prime minister of the newly formed FR Yugoslavia. Milošević reasoned that he could use Panić's connections in the USA to lobby for the lift up of the harsh economic and political sanctions imposed by the UN which Yugoslavia was facing in 1992. Panić accepted this position with permission of George Bush⁷. On July 14, 1992 Panić was elected by members of Yugoslav Parliament for Prime minister of Yugoslav Federal Government in package with Dobrica Ćosić who was elected for the President of the FR Yugoslavia.

Although "initially looked upon as well-meaning amateur who had blundered into a political drama of sordid intrigue, reckless violence and genocidal war",⁸ Panić has soon after proved himself for something other than merely a political puppet in the hands of Milošević, and was began to be observed as a window of opportunity for breakthrough in Yugoslav crisis. Panić had promised to seek reconciliation among the Yugoslav peoples, and faced dramatic situation in Bosnia and Croatia by stating his firm resolve for peace since "no idea is worth killing for in the 20th century"⁹ but did not forget to deal with the Kosovo crisis as well. When asked to which extent Kosovo question appeared on his political radar, Panić replied that "it was obvious - the Kosovo problem was obvious",¹⁰ which was first acknowledgment of Kosovo problem in the Serbian political leadership. Main goals of his Kosovo related policy was to create talks between Serb and Albanian side, and to facilitate the work of the international monitors on the ground.

Less then a month after his appointment Prime Minister Panić has met with Ibrahim Rugova in London in August 1992. There Panić has promised the

⁷ Bill Press, "Panic in Serbia: missed opportunity", *Charleston Gazette*, 8 April 1999.

⁸ William Pfaff, "Vote for Panic, Vote for Peace", *The Baltimore Sun*, 17 December 1992.

⁹ "No Idea is Worth Killing for", Interview with Milan Panić, *LA Times*, 3 July 1992.

¹⁰ Milan Panić, "The Key To Peace and Democracy in the Balkans", Speech to the Business Council of the United Nations, 21 January 2001.

restoration of self-rule for the Kosovo Albanians, the re-admittance of Albanians to Priština University, the return of Albanian professors to University, freedom for the Albanian press and free elections¹¹. This meeting created avalanche of attacks on Prime Minister Panić in Yugoslav Federal Parliament which was forerun by Serbian Radical Party whose deputies have argued that Panić lacks political capacity for such negotiations and promises. In September 1992 Serbian Radical Party deputies have asked for a Parliamentary debate on confidence in Milan Panić.

On 9 October 1992, Panić has brought about the release from prison of Rexhep Osmani, the Minister of Education of the Kosovo 'shadow government'.¹² Few days later he made the decision to let the CSCE mission into FR Yugoslavia, thus creating preconditions for future CSCE mediation in Kosovo crisis. The CSCE was prepared to immediately send unarmed fact-finding and rapporteur missions into Kosovo, Vojvodina, and Sandžak. In October, Panić has made two visits to Priština, and on one occasion he has met with Ibrahim Rugova where the two agreed to form joint task forces that would deal with legislation, education, and provision of information in the Albanian language. However, not once during these meetings was the issue of Kosovo's status on the agenda. Prime Ministers' cabinet has become strong opposition to Milošević's Kosovo policies, and Panić's support amongst Serbian people grew stronger. When Milošević called upon presidential election, Panić has decided to enter the presidential race against him. He even got to temporarily unite fragmented Serbian democratic opposition to support him. However, the election campaign on state TV, only nationwide media at the time, provided enough air time for Serbian Radical Party to mark Milan Panić as the CIA figure, and a traitor, while the ruling Socialist Party was preparing for election fraud which was later reported by the CSCE international observers.¹³ On 20 December 1992, Milan Panić has lost the race for Presidential elections in Serbia by winning roughly 32% of the vote, while Milošević won 52%. Only days after, on 29 December 1992, deputies in the Yugoslav Federal Parliament voted a no confidence against Prime Minister Panić, thus terminating strong opposition to Milošević's policy in Kosovo, as well as in other regions in former Yugoslavia.

One more important aspect of internal Serbian policy toward Kosovo was the idea of ethnic division of Kosovo propagated by certain nationalistic cycles of Serbian intellectual elite. Although the division of Kosovo was possible solution to the crisis up until ten years, neither conflicting party has officially proposed such way out since they were constantly trenched between independence and

¹¹ Fabian Schmidt, "Kosovo: The Time Bomb That Has Not Gone Off", Radio Free Europe/Radio Liberty Research Report, Vol. 2, No. 39, 1 October 1993, p. 24, from: *The Kosovo Crisis Workshop Papers*, (University of Oxford, 18 May 1998).

¹² *Ibid.*

¹³ Chandler Rosenberg, "Serbian tightrope - Fraudulent December 1992 elections in Serbia", *National Review*, 1 February 1993.

status quo ultimatums. This does not mean that there were no ideas of such territorial division of the province.

First such idea came from Dobrica Ćosić (on 11 September 1990) when elaborating on the issue of Serbian national question Ćosić came to the conclusion that “Kosovo can not be saved”, so he advised that it is pragmatic and realistic to “accept separation where coal mines and holly places (Gračanica and Gazimestan) are”. He further advised that “such plan should be prepared and kept in secrecy until appropriate moment when it should be activated”.¹⁴ Ćosić’s proposal for territorial division of Kosovo and separation of Serbs and Albanians suggested that eastern and central Kosovo would belong to the Albanians, while northern and western part should remain within Serbia. Taking the river Ibar as a border zone, all later proposals followed more or less same pattern of territorial division. Ćosić’s proposal and the plan itself did not get much attention at the time when it was created, and most of it was not known until 2004 when Ćosić’s book *Kosovo*, which was written in form of a political diary and advertised as “Ćosić’s last Kosovo battle”, was published. Even so, there are important points that could be concluded from this plan which can shed a new light to Serbian political position towards Kosovo in the nineties. In 2004 Ćosić claims that he does not propose ethnical division of the territories, and as example for such claim he offers idea that Serbian monasteries should keep their self-rule even if they stay on Albanian territory. However, in *The Working Notes* published in 1992, Ćosić states that “radical solution of Kosovo crisis by division based on ethnical, cultural, and historic rights should commence”¹⁵ which does not correspond to his later thoughts. Further he writes that the “Revision of borders is inevitable, democratic, and fruitful for all Yugoslav people, [and that] ... permanent peace requires this revision of borders between republics [of former SFR Yugoslavia] which were inherited from war, and made during Titoistic ideology”.¹⁶ This suggests that Ćosić accepts division of Kosovo as inevitable, but also opens such perspective for other parts of Yugoslavia. This was ultimately confirmed in his notes from 1993 where he wrote that “unification of Albanian people is historically inevitable, but this process should be conditioned by acknowledging the same right for Serbs on the whole territory of former Yugoslavia”.¹⁷ Clearly Ćosić’s *ratio legis* for proposal for territorial division of Kosovo from the first half of the nineties lays in his aspiration for restructuring of borders between republics and provinces in the former Yugoslavia, and presumably creating greater Serbian ethnic state.

¹⁴ Slobodan Antonić, “Esej o podeli Kosova”, from Borisav Jović, *Knjiga o Miloševiću* (Belgrade, 2001).

¹⁵ Slobodan Antonić, “Esej o podeli Kosova”, from Dobrica Ćosić, *The Working Notes* (Belgrade, 1992).

¹⁶ *Ibid.*

¹⁷ *Ibid.*

Other members of Serbian Academy of Sciences and Arts (SANU) have later prepared their proposals for territorial division of Kosovo. Such known proposals came from Aleksandar Despić, SANU's president, in 1997. In his address to the SANU members, and in the light of the Dayton Peace Accord, he stated that Serbia was on the historical turning point, so he recommended the partition of Kosovo in order to cut the knot of Kosovo which was becoming a very heavy burden for Belgrade in the post-Dayton period. Desimir Tošić, member of the Democratic Party, spoke affirmatively on the partition of Kosovo as early as 1996, but in interview ten years after he remembers how "at the time no one of the Serbian officials was even considering such an idea".¹⁸ Dušan T. Bataković also elaborated the issue of cantonization of Kosovo in early 1998. In his thesis Bataković proposes that "The model of cantonization is an obvious answer with which, on the one hand, the existing ethnic proportions of the province as well as its multiethnic composition will be preserved, but with distinct rights for cantons with a Serbian majority".¹⁹

None of these proposals received worthy public attention, or political debate. Even so, due to further militarization of the conflict, all these initiatives came too late, and the Kosovo crisis was to receive different solution.

The *status quo* lasted until the Kosovo Liberation Army (KLA) became increasingly active, in 1997. However, there were no attempts to resolve the conflict with the KLA since the Serbian authorities denounced it as a terrorist organization and declined any possibility to negotiate with the alleged terrorists. There were, however, attempts to negotiate with some representatives of Kosovo Albanians which were untimely or insincere.

By the decision of Serbian Government a Negotiating Team for the Dialogue with Kosovo Albanians was formed on 11 March 1998. This Team was publicly invited on representatives of Kosovo Albanians to a meeting in Priština, showing later on National TV how there was no response from Albanian side.

When, on 15 May 1998, Slobodan Milošević met with Ibrahim Rugova, it was the first time that a Yugoslav president had met with an Albanian leader from Kosovo in close to a decade. The Milošević-Rugova meeting took place in the aftermath of six months of escalating violence in Kosovo between Serbian police and KLA, and intense US shuttle diplomacy under the auspices of Richard Holbrooke. "By agreeing to meet Rugova and apparently nothing else, Milošević has parried a half-hearted threat by the Contact Group countries - the United States, United Kingdom, France, Italy, Germany, and Russia - to impose new economic sanctions on the Federal Republic of Yugoslavia. These sanctions, depending on how they were engineered and targeted, had the potential to

¹⁸ N. M. Jovanović, "Kosovo i kako bi uskoro mogla da izgleda karta Balkana", daily newspaper *Blic*, 1 November 2005.

¹⁹ Dušan T. Bataković, "Cantonization of Kosovo-Metohija" (1998), <http://www.batakovic.com/canton.html>

threaten Milošević's hold on power and thereby pressure him to strike an agreement that would define a new *modus vivendi* for Kosovo's Serbs and Albanians. Now the pressure on Milošević to make a deal has dissipated, and Milošević has worked the Contact Group countries into a position where they could be compelled in the near term to acquiesce to, and perhaps even assist, a Serbian police crackdown on the KLA".²⁰

There were three known meetings held between Milošević and Rugova, all of them taking place as if Rugova was more or less discreetly brought in to the negotiations, as it was noted in Serbian weekly magazine *Vreme*.²¹

It can be observed how negotiation attempts intensified in the conflict resolution, instead in the conflict prevention phase. It was noticed by many experts how, even if they acted in good faith, the negotiators were burdened by the nationalist camp back home.

2.2. The Reasons of Failure

The outbreak of the violent conflicts in Croatia, Bosnia and Kosovo and the possibility for their prevention or peaceful resolution must be observed in the overall context of the Yugoslav crisis. There are essentially two questions that need to be answered. The first one is whether the dissolution of a multinational communist state such as Yugoslavia was inevitable. The second one is whether this dissolution had to be conducted in such a violent manner, or more precisely, whether the negotiations for peaceful dissolution were predestined to fail.

The dissolution of Yugoslavia went together with the great socio-economic changes in the entire socialist block in the late eighties. When the Yugoslav version of totalitarianism started to decompose in early seventies and when the practical consequences of incompetence, experimentation and aspirations to international grandeur had to be faced, simple, easily understandable statements with identifiable traditional culprits were easily espoused not only by the general public but also by the nomenklatura, largely non-intellectual and even anti-intellectual, eager to retain power at any cost or on the basis of any claim to legitimacy. Nationalism was the most powerful tool for achieving this goal. The conservative, anti-reformist wing of the Serbian League of Communists was the first to switch to populist nationalism; in the sequence, the other parties from other republics followed suit. Communist rule, by destroying the economy, preventing pluralist democracy and stifling civil society produced social discontent, accustomed social actors to violence and exclusivity and led the population away from making rational choices. The

²⁰ "Serbia: Inventory of a Windfall: Milošević's Gains from the Kosovo Dialogue", Crisis Group, *Europe Report N°3*, 28 May 1998.

²¹ Nenad Lj. Stefanović, "Milošević i Rugova u Haškoj sudnici", weekly magazine *Vreme*, No. 592, 22 February 2001.

result was typical post-communist nationalism, which could not but spell the doom of multinational federation.

Yugoslavia as a *multinational* state and its institutional structures, established to accommodate its *six recognised nations* by giving each nation its own state (republic), did not have the same meaning for all its nations. The more Yugoslavia ceded its sovereignty and delegated it to the republics, the greater was the perceived threat to the Serbian national interest. Serbs regarded Yugoslavia as the resolution of the Serbian national issue, as an achieved the national programme of unifying all Serbs in the same state. Therefore, Serbs had always held the centralist (and, thus, authoritarian) position and departed from it in their defence of Yugoslavia (i.e. the only way it could be defended as it was not a politically legitimate state), because Yugoslavia had been unstable from its inception due to the national aspirations of specific nations (and minorities, notably the Albanians) to set up their own independent states. This was especially true in the case of Croats and Albanians (as a minority) and later of the Slovenes. Some nations imagined their states within Yugoslavia (Macedonians, Bosnians) but on condition that the existing “national balance” be preserved (i.e. that all nations stay rallied together to counter the prevalence of Serbs).

While there was an obvious conflict of interests between the Slovenian and Croatian aspirations for secession on one side, and the Serbian and Montenegrin rather centralistic approach on the other, two remaining republics, Bosnia and Herzegovina and Macedonia held much more moderate positions. While these republics supported major constitutional reform and decentralisation of SFR Yugoslavia, they sought the solution within the framework of a state union of sovereign republics or, alternatively, by creating an alliance between sovereign states. Due to the moderate course that these two republics held in the opening months of the crisis, it is natural that the first constructive propositions for the resolution of the conflict came from their side.

At the time of negotiations Serbia strongly relied on the power of the conservative communist Yugoslav People’s Army (JNA). This is probably the main reason why the Serbian leadership took very firm positions in the process of conflict prevention, and was not ready for compromise with the other sides. With overwhelming power in his hands, Milošević believed that it would be possible to hold Yugoslavia together by force, and that any resistance which could have come from the other side would be crushed within days. Milošević’s reliance on the Army was not based on nationalist grounds, but mostly on shared ideology basis. JNA functioned practically as the military wing of the Communist Party, of which only Milošević stayed as autochthonous leader.²²

²² Serbia’s society entered political transition and moved to a pluralist political system only with a tragic delay. Alongside Montenegro, Serbia was the last former Yugoslav republic to call for and hold multi-party republican parliamentary and presidential elections. These elections were held in late 1990 (on 9 and 23 December).

There was a strong and influential Party organization within the Army, and it was only natural that such organization would give its support to the conservative elements in the circumstances of the erosion of the communist system and ideology.

On the other hand, Croats were ready for the war, too. By establishing the Corps of the National Guard (Zbor narodne garde - ZNG), the Croatian Democratic Union (Hrvatska demokratska zajednica - HDZ) and its leader and president of Croatia Franjo Tuđman were confident that they would have enough strength to resist pressure and reach their aspirations for independence by force. With the two key factors for peaceful solutions seeking for the ways to demonstrate their powers, it was very hard to evade conflict.

For actors in Yugoslavia the decision to resist, support or merely tolerate its hasty dissolution was a matter of political choice, where ideology and interests played their role.²³ However, the awareness of the terrible consequences of hasty disintegration put matters under a different light. In it, people advising caution or transitional arrangements (e.g. a confederate settlement) should not only be considered unrealistic dreamers, protectors of vested interests or as romantic "Yugo-nostalgics". In another expression of post-Yugoslav schizophrenia the latter are now viewed both as harmlessly silly and very dangerous by nationalist establishments in almost all post-Yugoslav states! However, they had better, if pessimist, predictions. Their efforts and their admonitions were without political effect. For nationalist propaganda it was easy to diagnose the moderate civic principle as pro-Yugoslav, anational, and unpatriotic. Furthermore, uncompromising nationalists on all sides believed everything would be easy for them: the Serbs had on their side the powerful Yugoslav People's Army and Croats and some others thought that they would be forcefully backed by the West as bastions against communism. All nationalists, including the Albanian, shared the view that in times of great upheaval normally unattainable national goals could be reached. 1989 was believed to be 1918 or 1945.

Negotiations started when ethno-mobilization and preparations for the war had already gone too far. National programs were already formulated and accepted

²³ It was to be expected that the higher echelons within the Yugoslav People's Army would be staunchly pro-Yugoslav, Yugoslavia being for them an embodiment of socialism and a source of considerable privileges. The Army's subsequent alliance with Milošević was based on the belief that the Serbian League of Communists, and Serbs altogether, was the only ones willing to resist the abolition of socialism. In this respect, the perusal of the memoirs of the then Minister of Defence, Veljko Kadijević is very instructive. The conduct of the Army has been generally, and in our view mistakenly, explained by the fact that ethnic Serbs and Montenegrins comprised a majority of officers below the rank of general. No significant defection of Moslem and Macedonian officers was noticed while the army was acting against Slovenia and Croatia. Rather, the officer corps was purged from most non-Serbs and non-Montenegrins only after the reconstruction of Yugoslavia as a Serb-Montenegrin federation in the middle of 1992. Kadijević himself is of mixed Serb and Croat origin.

by general populations due to aggressive nationalist propaganda. In the time of negotiations, certain parties were already legally obliged to stick to the idea of secession,²⁴ while the others would lose their political legitimacy that was built upon firm resolution for preservation of Yugoslavia. Therefore, it is hard to believe that under the circumstances the war in Yugoslavia could have been prevented solely by domestic peace efforts.

3. International Attempts at Conflict-Management

3.1. Peacemaking in former Yugoslavia

3.1.1. Croatia

International community stepped into the Yugoslav crisis when the armed conflict already erupted. Up until proclamation of independence by Slovenia and Croatia on 25 June 1991, international involvement in the conflict had essentially been limited to strongly worded statements by the European Community (EC) and the administration of US President George Bush that Yugoslavia should retain its territorial integrity and that the republics should resolve their disputes peacefully.²⁵ As soon as September 1991, the EC decided to take more active role in the efforts to stop the violence and bring parties to negotiating table. These efforts were embodied in the EC-initiated Peace Conference on Yugoslavia opened in The Hague in early September 1991 and was attended by the Presidents of all six Yugoslav republics. The organisers and Conference Chairman Lord Carrington (UK) had thus accepted the reality on the ground in the (former) Yugoslavia. Namely, by the autumn of 1991, SFRY institutions no longer functioned as veritable federal state bodies. Representatives of Slovenia and Croatia had stopped participating in the work of the federal institutions on 25 June 1991, when these two republics declared independence. Soon after, representatives of Bosnia and Herzegovina and Macedonia also stopped attending SFRY Parliament and Presidency sessions. The federal institutions thereafter operated as the "mouthpiece" of the Serbian and Montenegrin republican authorities, which, as a rule, thought and spoke as one. Any attempt to find a solution to the crisis and the war already raging in Croatia evidently had to be sought at a conference at which the leaders of the confronted republics would directly take part. During the Conference, the mediators offered principles for redefining the relations in the Yugoslav community or criteria for the peaceful dissolution of the state. None

²⁴ Such as Slovenia, where the referendum on independence had already been held.

²⁵ Elinor C. Sloan, *Bosnia and the New Collective Security* (Praeger, 1998), p. 14. These principles were included in the Final Act of the Conference on Security and Cooperation in Europe signed in Helsinki on 1 August 1975.

of the proposals were adopted, in most cases because they were rejected by the Serbian authorities.²⁶

The proposed solution (The Draft Declaration on Yugoslavia) was officially presented at the Peace Conference on Yugoslavia, on 18 October 1991. The proposal was based on two chief premises and in principle envisaged the formalisation of the sovereignty and independence of the former federal units of Yugoslavia (republics), their international recognition and the possibility of their free association as sovereign states.²⁷ Special attention was devoted to human and minority rights guarantees and development of special mechanisms for their protection. These guarantees especially focused on the protection of national and ethnic groups that would go on living in the independent states created after the disintegration of the SFRY. Given the fiercest conflict (at the time) and the open issue of Yugoslavia's definite disintegration, the Declaration devoted special attention to special status models for territories in which a specific ethnic or national group accounted for the majority population although it on the whole constituted a minority within a newly independent state. The Declaration specifically envisaged such a status for parts of Croatia predominantly populated by Serbs.

The model solution in the Draft Declaration on Yugoslavia can be qualified as the first proposal backed by the European Community. It was, however, refused by the Belgrade authorities. Milošević explicitly rejected the document with the explanation that it was disintegrating a state "that has existed for seventy years". Milošević, however, did not insist on the survival of Yugoslavia in his conversations with his closest associates, Serbian bodies and the "rump" SFRY Presidency. His policy and that of the whole Serbian leadership focused on other issues: the Serb population in Croatia, the intervention of the Yugoslav People's Army (JNA), on drawing borders with the former republics along ethnic lines in case the SFRY ceased to exist. Borisav Jović, then the Serbian representative in the rump SFRY Presidency, who chronicled the last years of the SFRY, gives the following account of the Serbian leadership's impressions of the Carrington proposal: "It was obvious even from the original text that the proposal was unacceptable, that it ought to be rejected: it was disintegrating Yugoslavia, leaving Serbs living in different states, leaving Serbs in Croatia".²⁸

²⁶ Milan Šahović, *Uloga Evropske unije u jugoslovenskoj krizi i odnos prema SR Jugoslaviji (The Role of the European Union in the Yugoslav Crisis and its Policy on the FR of Yugoslavia)*, (Centre for Anti-War Action, Belgrade, 2000), p. 9.

²⁷ Lord Carrington subsequently said he had been "guided by the wish to protect national minorities in all the republics, establish inter-republican financial agreements and explore which institutions would be able to ensure a link with the political centre..." (daily newspaper *Borba*, 27 January 1992, p. 12).

²⁸ Borisav Jović, *Poslednji dani SFRJ - izvodi iz dnevnika (Last Days of the SFRY - Diary Excerpts)*, (Belgrade, 1995), p. 400.

The Serbian and Montenegrin leaderships seriously disagreed for the first (and only time until the mid-nineties) over the Carrington plan. When the delegations at The Hague Conference were declaring their views on the Draft Declaration on 19 October 1991, the Montenegrin representative accepted the proposed solutions. Belgrade was infuriated by this move of the Montenegrin delegation headed by Montenegrin President Momir Bulatović and Prime Minister Milo Đukanović. Serbia's leaders qualified the turnabout as "the most devious stab in the back of Serbia and its leadership", all the more as, they claimed, the Montenegrin leadership was simultaneously advocating decisive JNA military actions in Croatia. Jović recounts another interesting and illustrative albeit unrelated episode: in a meeting with Montenegrin leaders, the Serbian leadership said it thought it was important "that we succeeded in militarily protecting the territories of the Serb people, that we ought not to seize those of others, that we need to maintain balance on the ground and conduct political talks. What is important is that we succeed in giving the Serb people in Croatia freedom and independence from Croatia".²⁹

On 23 October 1991, Lord Carrington offered a modified proposal for the resolution of the Yugoslav crisis. The most significant modifications concerned the status of Serbs in the other republics (Croatia) and specified the international control of the enforcement of the special status. In addition, it raised a new issue: restitution of the status of Serbia's autonomous provinces (Kosovo and Vojvodina) abolished by the 1990 Serbian Constitution.

Two new, amended and elaborated versions of the draft Declaration were put on the table in late October and early November 1991. The fourth draft of the document was presented at the 5 November Hague Conference session. In addition to the principles in the previous drafts, this, most detailed version included some new solutions, the chief objective of which was to provide real possibilities for the normal functioning of and close economic cooperation amongst the new states and for establishing a single market of states that wished to enter such an arrangement. The document also explicitly envisaged the possibility of creating a common state of republics which wished to enter such a union. This proposal, too, was turned down by official Belgrade and the SFRY "puppet" Presidency.³⁰ As agreed with Slobodan Milošević, Momir Bulatović fielded a proposal on the preservation of the common state and suggested the proposal be treated on an equal footing with the one on its international abolition.

The dramatic events during the finale of The Hague Conference were accompanied by the application of new levers of influence on the protagonists in the Yugoslav crisis. The European institutions resorted to mechanisms of

²⁹ *Ibid.*

³⁰ Milošević qualified the proposal as an ultimatum. The Serbian President would habitually revert to such conduct and rhetoric every time he faced a clear and final proposal of the international factors throughout the crises that ensued, until he was toppled in October 2000.

punishment of the participants who were not cooperative in the talks. At their meeting in Brussels, in late October 1991, EC foreign ministers to that end adopted a Declaration in which they announced that restrictive measures would be taken against parties that continued blocking attempts to find a peaceful solution at the Peace Conference on Yugoslavia. The Declaration clearly stated that all agreements on cooperation and trade would be suspended and then renewed only with the parties that contributed to the peace process.

After the Serbian authorities rejected the fourth draft, the EC Council of Ministers agreed at its meeting in Rome on specific measures against parties in the Yugoslav crisis, notably to immediately suspend the application of the Trade and Cooperation Agreement, restore limits on its textile exports to EC countries, remove Yugoslavia from the list of beneficiaries of the General System of Preferences and formally suspend its benefits under the PHARE programme. It also called on the UNSC to ensure the full implementation of the arms embargo and take steps towards imposing an oil embargo. The ministers, however, left the possibility of applying “positive compensatory measures” *vis-à-vis* parties that were cooperative in the process of bringing about peace.³¹

The role of the United Nations was expressed in a variety of ways, both directly and indirectly, but its main and most complex expression was in the stationing of the UN protective forces (UNPROFOR) as a force designed to keep peace in the territory of Croatia. Although the military presence of the United Nations as a peace-keeper was not in itself decisively important and did not lead to the result initially envisaged, it nevertheless affected the military and political developments in Croatia and neighbouring lands; this influence persists to this day.

In late 1991, UN Secretary General’s Special Envoy, US diplomat Cyrus Vance, proposed a concept for the deployment of UN peace troops in Yugoslavia. The international community in this document proposed a model for deploying troops that would end the armed conflicts and enable a peaceful resolution of the crisis. Although the first proposal to engage such troops was voiced by the “rump” SFRY Presidency in early November 1991, the whole UN operation was implemented under the leadership of the leading Western states. The UN Security Council adopted Resolution 721 (on 27 November 1991), establishing the procedure for implementing the plan and deploying peace troops.

The UN peacekeeping operation plan in Yugoslavia was made public on 11 December 1991. The plan had been devised by Cyrus Vance, the personal envoy of the UN Secretary General, and Mark Goulding, Assistant Secretary General for political issues. All the parties to the conflict gave their assent to the plan

³¹ The conduct of the republican leaderships at the Peace Conference in The Hague was the chief criterion for exempting these republics from sanctions. The EC Council of Ministers subsequently exempted Bosnia and Herzegovina, Macedonia, Slovenia and Croatia from these economic sanctions.

as proposed. The UN peace-keeping operations in Yugoslavia were intended as an interim arrangement with the aim of creating conditions for the peace and security essential for discussion of a definitive overall solution of the crisis. It was stipulated that the UN operation would in no way prejudice the outcome of such discussions. A condition for the implementation of UN operations was "that all sides in the conflict adhere strictly to agreements, especially the agreement on an unconditional cease-fire reached in Geneva on 23 November". The military forces provided by governments of member states of the United Nations were required to be absolutely impartial, and would be permitted to use their weapons only for self-defence.

The Belgrade authorities accepted the plan, reassuring the Western decision makers it would be upheld also by Serb politicians in the Serb-populated parts of Croatia (Krajinas). The four-member ("rump") SFRY Presidency officially endorsed the plan on 31 December 1991. However, part of the political leadership supporting the then Krajina President Milan Babić, persistently opposed the Vance Plan throughout January 1992.

The adoption and implementation of the Vance Plan in early 1992 resulted in halting fighting in Croatia. All parties to the conflict, including official Belgrade, insisted on the cessation of hostilities. To that end, the Belgrade authorities exerted great pressure on part of the Krajina leadership rallied round Milan Babić. It goes without saying that all parties to the conflict, including the Serbs, had done so bearing in mind the possibility that the acceptance of UN engagement and that of other international factors would in the long term help them achieve the goals with which they had entered the conflicts. Notwithstanding their motives, there is no doubt that there were no serious conflicts in the territory ravaged by intensive fighting after UNPROFOR was fully deployed in mid-May 1992.

The effects of international engagement after 1992 cannot be analysed in isolation from another conflict that broke out in the former Yugoslavia at the time. The siege of Sarajevo began in early April 1992 and the war soon spread to all of Bosnia and Herzegovina. As far the engagement of Serbia's protagonists is concerned, the conflict in Croatia, temporarily halted by UNPROFOR's deployment, no longer warranted much attention.

The Contact Group (USA, UK, France, Germany, Russia and Italy) was assuming an increasingly important role in the later stage of the crisis in Croatia. At the end of 1994, the CG formulated a plan for the reintegration of the territories of the former Republic of Serb Krajina (RSK) in the political and legal order of the Republic of Croatia. The Belgrade regime expressed its readiness to accept the plan, but the RSK structures rejected this plan as well.

In late January 1995, the international Contact Group offered the representatives of Zagreb and Knin a draft agreement on Slavonia, South

Baranja and Western Srem. The document envisaged the establishment of the autonomous region of Serb Krajina comprising of areas populated mostly by Serbs under the 1991 census. Under the draft plan, the Croatian Constitution and legislation would apply in the Krajina, but would have to be endorsed and implemented by the Knin authorities.

The Erdut Agreement (Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Srem) was struck on 12 November 1995 and signed by the representatives of the Republic of Croatia and of local Serbs. On behalf of Croatia, it was signed by President Tuđman's Chief of Staff Hrvoje Šarinić and on behalf of the Serbs by former Deputy RSK Defence Minister Milan Milanović. Thorvald Stoltenberg and Peter Galbraith attended the signing ceremony on behalf of the international community.

The Agreement envisaged a transitional UN administration in the territory, its reintegration in the Croatian legal system and full demilitarisation under conditions set by the international administration. The agreement set the date for local elections in the area and authorised the Serbs to establish a common Council of Communes.

The UN mission (UNTAES) was established on 15 January 1995. The Mission, initially established for a 12-month period, comprised a military and a civilian component. The military component was to supervise and facilitate the demilitarisation of the Region; monitor the voluntary and safe return of refugees and displaced persons to their homes of origin in cooperation with UNHCR; contribute to the maintenance of peace and security in the region; and otherwise assist in implementation of the Basic Agreement.

The civilian component was to establish a temporary police force, define its structure and size, develop a training programme and oversee its implementation, and monitor treatment of offenders and the prison system; undertake tasks relating to civil administration and to the functioning of public services; facilitate the return of refugees; organize elections, assist in their conduct, and certify the results. The component was also requested to undertake other activities relevant to the Basic Agreement, including assistance in the coordination of plans for the development and economic reconstruction of the Region and monitoring of the parties' compliance with their commitments to respect the highest standards of human rights and fundamental freedoms, promote an atmosphere of confidence among all local residents irrespective of their ethnic origin, monitor and facilitate the demining of territory within the Region, and maintain an active public affairs element. UNTAES was also to cooperate with the International Criminal Tribunal for the Former Yugoslavia in performing its mandate.

Although the Belgrade authorities did not formally take part in the design of the Erdut Agreement, they again influenced the Krajina Serb leadership in this

stage of conflict resolution. In his testimony at the ICTY trial of Slobodan Milošević, a signatory of the Agreement, Milan Milanović, for instance, spoke about the contacts he had had with Belgrade officials before the Erdut Agreement was signed. He, *inter alia*, asserted that he had Milošević's approval for all his actions regarding the Agreement. The influence of the Belgrade regime was also made explicit in the part of Milanović's testimony in which he mentioned the messages he had received from the then chief of Serbia's State Security Jovica Stanišić, who interpreted to Milanović his conversations with Milošević while they were attending the Bosnia peace talks in Dayton. According to Milanović, the last message he got from Stanišić was "I've tried everything with the president, but we've lost Slavonia, Baranja, and Western Srem. God save them."³²

3.1.2. Bosnia and Herzegovina

Although Croatia was at the focus of the Peace Conference in 1991, international actors recognized the risks that could endanger the fragile peace in Bosnia and immediately started searching for a solution which could have prevented a potential conflict. While domestic negotiations were focused on the issues of functioning of the remaining republics within a future common state, the international negotiators recognized a conflict potential among the diverse ethnic groups within Bosnia itself. The international conference on Bosnia and Herzegovina was opened in Sarajevo under EC patronage in mid-February 1992. Negotiations resulted in the Carrington-Cutileiro peace plan (also known as the Lisbon Agreement). It proposed an ethnic power-sharing on all administrative levels and the devolution of central government to local ethnic communities. However, all Bosnia and Herzegovina's districts would be classified as Bosnian, Serbian or Croatian under the plan, even where no ethnic majority was evident. Essentially, the plan proposed a Swiss-type cantonal confederation of Bosnia and Herzegovina. As far as the organization of government was concerned, the plan proposed bicameral parliament that would initially correspond to the ethnic composition of the country. Decisions were to be made by securing the acceptance from the representatives of all three ethnic groups.

The problem with the cantonization of Bosnia was that none of the three ethnic groups had contiguous territories and that the Muslim cantons were the most scattered. Because of this, the Muslim side was mostly discontent with the plan, and although the plan was initially accepted by all three sides (Muslims (Bosniaks), Serbs and Croats), Alija Izetbegović, the Bosniak representative, later withdraw his consent.³³

³²http://209.85.129.104/search?q=cache:XMW8EiTadjYJ:iwpr.net/%3Fapc_state%3Dhenitri2003%261%3Dsr%26s%3Df%26o%3D163901+erdutski+sporazum&hl=en&ct=clnk&cd=18.

³³ Radha Kumar, *Divide and Fall? Bosnia in the Annals of Partition* (Verso, 1999), p. 52.

It was evident that ethnicity could not be used as the criteria for internal partition of Bosnia. As United Nations Secretary General stated in his Report on the International Conference on the Former Yugoslavia:

"The population of Bosnia and Herzegovina is inextricably intermingled. Thus there appears to be no viable way to create three territorially distinct States based on ethnic or confessional principles. Any plan to do so would involve incorporating a very large number of members of the other ethnic/confessional groups, or consist of a number of separate enclaves of each ethnic/confessional group. Such a plan could achieve homogeneity and coherent boundaries only by a process of enforced population transfer..."³⁴

This is exactly what ensued. By the time the international community took an active role in preventing the Bosnian conflict, the Serbian side already developed its strategy of seizing control over the territories that could be linked directly with Serbia. Just one day after the USA recognition of Bosnian independence, paramilitary units from Serbia, led by Željko Ražnatović Arkan, supported by the JNA shelled Zvornik from inner Serbia, and demanded the surrender of the Muslim population. With this attack, the change of Bosnia's ethnic geography commenced.

Due to the deteriorating situation in Bosnia, and failing to succeed in his attempts to negotiate a cease-fire agreement, Cutileiro informed the parties that he had decided on what would later prove to be a permanent adjournment of the EC peace conference.³⁵

It took more than three months to initiate a new round of negotiations. The next attempt was made at the London Conference on Yugoslavia. The basic goals of the UK sponsored meeting were "to alleviate the humanitarian nightmare in Bosnia; to support the negotiating process; to punish the aggressors [by] tighten[ing] the economic and political isolation of Serbia and Montenegro; to quarantine and contain the conflict and prevent its widening; and, ultimately, to bring peace to the peoples of the former Yugoslavia".³⁶ A set of principles was endorsed as the basis for a negotiated settlement of the problems of former Yugoslavia. Thirteen principles were envisaged, among which an immediate cease-fire, non-recognition of advantages gained by force or *fait accompli* or of any legal consequences thereof as well as total condemnation of forcible expulsions, illegal detentions and attempts to change the ethnic composition of populations, the need for all parties concerned to

³⁴ UN Doc. S/24795, 11 November 1992.

³⁵ UN Doc. S/23900, 12 May 1992, para 8. See in Elinor C. Sloan, *Bosnia and the New Collective Security* (Praeger, 1998), p. 45.

³⁶ Acting US Secretary of State Lawrence Eagleburger, "London Conference to Galvanize International Action", news conference after London Conference on Yugoslavia, 28 August 1992, *US Department of State Dispatch*, No. SUP 6-7 September 1992, p. 7. See also in Elinor C. Sloan, *op. cit.*, p. 46.

engage actively, directly or through intermediaries, in negotiations on the basis of these principles, respect for the highest standards of individual rights and fundamental freedoms in a democratic society and their implementation in the form of constitutional guarantees and the fundamental obligation to respect the independence, sovereignty and territorial integrity of all states in the region.

The main outcome of the London conference was the establishment of the permanent International Conference on the former Yugoslavia based in Geneva co-chaired by Cyrus Vance (UN) and David Owen (EC). Working groups for demilitarization of Sarajevo, ending of hostilities and drafting of the constitution were established. The principal negotiating parties were representatives of the peoples of Bosnia, but the leadership of the Serbia and Montenegro took an active role in negotiating process. Its role was to persuade the leadership of Bosnian Serbs to accept the plan.

By the time when the Vance-Owen Peace Plan emerged in early January 1993, Serbia was under a strict sanction regime, with hyperinflation unprecedented in contemporary economic history. When it became apparent that the Bosnian Serbs were not going to accept the Plan, the international community put additional pressure on Milošević by threatening a total blockade of Serbia and the freezing of all Yugoslav assets outside the FRY.³⁷ This was probably a breaking point which led to Milošević's endorsement of the Plan and his significant efforts to convince the Bosnian Serbs to agree to it.

During the negotiations Milošević tried not to be involved in the most sensitive part of the Plan - the drawing of the map. He insisted that he could use his influence over the Bosnian Serb leadership only in matters of principle and not as to the details.³⁸ The only concern Milošević had about the maps was that too many Serbs fell outside Serbian territories.³⁹ However, he was convinced that it would be possible to exchange territory for territory, and that the proportion of division of Bosnia could reach 50:50 percentage.

The Bosnian Serbs had a very firm position when the maps were concerned. They effectively controlled almost 70% of the territory of Bosnia and Herzegovina at the time of the Vance-Owen Plan, which offered some 43% of the territory to Serbian side. What was even more problematic for the Serbian side was the fact that three provinces in which Serbs would have the majority

³⁷ UNSC resolution 820.

³⁸ This was constantly pointed out by Milošević on his meetings with international negotiators. See, for example, transcript of the eight session of Supreme Council of Defence, 12 March 1993, SPOV. no. 2-6, p. 48, as presented in Momir Bulatović, *op. cit.*, p. 158.

³⁹ Some 400.000 - 650.000 Serbs fell on the territories which were to be controlled by Bosniaks or Croats in accordance with the Plan. See transcript of the eight session of Supreme Council of Defence, 12 March 1993, SPOV. no. 2-6, p. 48, as presented in Momir Bulatović, *op. cit.*, p. 159.

in accordance with the plan were not merged into one contiguous territory. That was in direct conflict with their overall goal to form a “state within a state” which would operate as independently as possible from the central government.

It seems that Milošević was not so eager to unite all Serbian provinces in the future Bosnia into a contiguous territory. He was very well aware that international community would never agree to give more than 50% of the Bosnian territory to the Serbian side, simply because Serbs were only 30% of the overall Bosnian population. According to Lord Owen, it seems that after his acceptance of Vance-Owen Plan, Milošević ceased to pursue his goal of a “Greater Serbia”.⁴⁰ However, he continued to represent himself as a defender of that idea, in order to influence the Bosnian Serb leadership to accept proposed plan.⁴¹

However, maps were not the only element of the Vance-Owen Plan that was not acceptable for the Bosnian Serb side. An additional major obstacle was that delegation of Bosnian Serbs openly stated that as far as they are concerned an independent state of Bosnia and Herzegovina never existed. “It did not disguise the fact that it considers that it (Republika Srpska) is being forced by the international community to live within Bosnia and Herzegovina against its wishes”.⁴² Due to this, the Serbian side asserted that it wishes to retain as much of their “Republika Srpska” as possible, and to restrict the functions of the central governmental institutions of Bosnia and Herzegovina at a minimum.

⁴⁰ During his testimony on Milošević’s Trial before ICTY on 3 November 2003, Owen said: “I think it was the 23rd of April or ... that I formed the view that Milošević was now ready to accept that there would not necessarily be a link between Republika Srpska and Serbia, but that he could get for the Serbs what they needed, in his judgement, through the Vance-Owen Peace Plan and then through the EU the union of three republics, the EU action plan and like that, which was all basically all part of the same family. The Vance-Owen Peace Plan was a unified Bosnia and Herzegovina, and that was in a way surprising that he was still prepared to accept that. Of course with the provision that he thought that they would gradually merge and get more territory and that sort of thing. But I believe that he did thereafter, as far as Bosnia is concerned, accept that world opinion was not going to probably ever accept that it came into Serbia and Montenegro. He still intended to keep Kosovo firmly part of Serbia, and I think he perhaps at that stage had not yet accepted that the Croatian Serbs would have to live in Croatia. I think that was more something he came to accept towards 1994, although you could argue that his agreement to the Vance initial proposals, he knew that it would eventually happen but it would just take time. And this is a person who has obviously thought through all of this carefully, President Milošević, but I think that there was a period when he was a Greater Serbia supporter and believed he could get away with it. Then he became aware of the pressures of the international community. On Bosnia, I think in April 1993 he began to accept that he wouldn't get that full picture.” See *Transcript from Milošević Trial*, p. 28434-28435.

⁴¹ In his speech in the Republika Srpska Parliament he made on 9 May 1993, Milošević continued to talk about common economic area of Serbian people, monetary union, etc. See Expert opinion of Dr. Robert J. Donia, Parliament of Republika Srpska, Important Moments and Fragments, Milošević Trial, 29 July 2003.

⁴² See Report of the Secretary-General on the Activities of the International Conference on the Former Yugoslavia: Peace Talks on Bosnia and Herzegovina, *UN Doc. S/25479*, 26 March 1993.

They also had objections on against having the institution of the President or Presidency of Bosnia and Herzegovina (Agreement on Interim Arrangements), and even objected to the existence of any form of central government.⁴³ Their proposal was the establishment of some sort of central coordinating body with as few functions as possible. They also objected to the existence of an interim Ministry for Foreign Affairs.

It was clear from all of these objections that the Serbian side put forward that it had no intention to try to resolve conflict within the previously agreed Constitutional Framework which had established Bosnia and Herzegovina as an independent state. From all of the proposed amendments, the conclusion could be drawn that further negotiations would be obstructed by the Bosnian Serb side until it reaches its final goal - secession from Bosnia and Herzegovina, and possibly merger with Serbia.

The rejection of the Vance-Owen Plan by the Bosnian Serb parliament and the personal humiliation that Milošević experienced after his speech at the session of Republika Srpska Parliament, on 9 May 1993, was the moment from which it was obvious that Milošević was losing control over the Bosnian Serb leadership.

The last attempt to find the solution for the Bosnian war before the final Dayton Peace Accords was made jointly by the great powers united in the formal coordinating Contact Group comprised of Great Britain, France, Germany, Russia and the United States.⁴⁴ As joint UN-EU peace efforts failed one by one, the international community recognized the necessity to actively involve the US government as the major force in international relations. However, the need for Russian assistance was identified as well, in order to secure the appearance of impartiality as the Bosnian Serbs strongly relied on friendly ties with Russia, and showed significant distrust toward Westerners. At the bottom-line, by involving great powers in the peace process, the threat of military intervention became more possible and predictable to the party which rejects to cooperate properly in the peace efforts.

The Contact Group peace plan inaugurated the 49:51 proportion of partition of Bosnia, leaving 49% of territory to Serbian side and 51% for Bosniaks and Croats. The maps contained in the plan were not what either the Serbian or the

⁴³ *Ibid.*, para. 19.

⁴⁴ In the meantime, there was yet another peace plan known also as "Invincible plan". In late July 1993, representatives of Bosnia's three warring factions entered into a new round of negotiations. On 20 August, the UN mediators Thorvald Stoltenberg and David Owen unveiled a map that would partition Bosnia into three ethnic mini-states, in which Bosnian Serb forces would be given 52 percent of Bosnia's territory, Muslims would be allotted 30 percent and Bosnian Croats would receive 18 percent. The proposed Serb territory flanked Serbia and swung across to connect up with Serb-held parts of Croatia. At the same time, Croatian territories in Bosnia were merged with Croatia. Although Bosnia and Herzegovina existed in theory, the Plan actually legalized the Greater Serbia and Greater Croatia projects. On 29 August 1993, Bosniaks rejected the Plan.

Bosniak side expected. While Bosniaks were dissatisfied because several formerly Muslim towns were to be under Serbian control in the future, Karadžić opposed the plan due to the fact that the map divided territory held by Serbs into four dislocated parts, and denied them important cities, economic resources, and access to the sea.⁴⁵ It became clear that Bosnian Serbs, confident in their military power, would not agree to any cession of their territories. In a late August 1994 plebiscite the Bosnian Serbs voted with more than a 95% majority to reject the peace plan.

This led to the final breakdown between the Bosnian Serbs and Milošević. Immediately after the Serbian plebiscite in Bosnia, Milošević decided to freeze all relations with the leadership of Republika Srpska, and to cut-off military aid. He set the blockade on the river Drina, and the support for Serbian people from Bosnia was limited to humanitarian aid.⁴⁶ Milošević had several reasons for this. The first one was highly politically pragmatic. By establishing the embargo, he showed to the international partners that he is distancing himself from his protégées in Bosnia, giving to internationals the space for lifting the sanctions against Serbia that already had devastating effect not only on the Serbian economy, but also on the stability of the Milošević regime in Serbia. The second reason was the necessity of stopping the war and preventing military intervention of NATO forces which would possibly involve targeting certain legitimate aims in Serbia proper.⁴⁷ The third reason was the personal rivalry that Milošević felt toward the leadership of the Bosnian Serbs, considering them as the major threat to his position as the unquestioned leader of all Serbs.

The falling out between Milošević and Karadžić was probably the most important outcome of the work of the Contact Group. By breaking the ties between Serbia and Republika Srpska, the military capacities of the Bosnian Serbs were seriously harmed. On the other side, the US backed alliance among Bosnian Croats and Muslims increased their military capacity. Under these circumstances, the situation on the ground regarding the percentage of the territories that each side had under its control began to be increasingly similar to the proportions contained in the peace plans maps. Eventually, after the few rushed actions of the Bosnian Serbs military, namely the siege of Srebrenica, Goražde and Bihać, international community led by the US decided

⁴⁵ Elinor C. Sloan, *op. cit.*, p. 60.

⁴⁶ These sanctions lasted until the end of February 1996.

⁴⁷ Milošević's awareness of possibility of such military intervention can be seen from one of the transcripts from the sessions of the Supreme Council of Defence. On one of such meetings Milošević said: First danger that we faced was drawing Federal Republic of Yugoslavia into the war. For us it was not the secret that the NATO plans consisted these conclusions: that the radar systems and systems of communication of Federal Republic of Yugoslavia and Republika Srpska are integrated and undivided and that it is necessary to destroy such facilities on the territory of FR Yugoslavia from the air - communications, bridges, energy facilities etc...". See transcript of 25th session of Supreme Council of Defence, SPOV no. 9-3, 30 August 1994. Translated in accordance with the transcript contained in Momir Bulatović, *op. cit.*, p. 180.

to stop threatening and to start using its military force by launching air strikes on Serbian positions in mid 1995. Threatening with a unilateral lifting of the arms embargo toward Bosniaks in November, US made it clear that Serbs could lose much more than 50% of the Bosnian territory if they did not agree to proposed plans. The last move of the US led diplomacy was to recognize Milošević as the only negotiator on the Serbian side.

By the time of the Dayton negotiations the UN sanctions had devastated the Serbian economy. Terrible socio-economic conditions in the country had become Milošević's primary concern, as they threatened his own grip on power. US diplomats, led by Richard Holbrook, offered a slight change in the American position toward Serbia. Sanctions would be suspended upon the initialling of an agreement, instead of waiting for its formal signing.⁴⁸ Milošević had only one choice if he was to stay in power in Serbia - to reach the agreement at any cost.

On the other hand, US diplomats accepted the reality that the division of Bosnia based on ethnic lines was eminent in order to secure the peace as quickly as possible. They recognized the necessity of merging Serbian territories and allowing special ties of future entities with neighbouring countries, i.e. Serbia on one side, and Croatia on the other. Although of questionable moral value (since it legitimized ethnic cleansing performed mainly by the Serbian side), this approach gave tribute to reality on the ground and ensured the reaching of a pragmatic solution.

Maps were not of primary concern to the Serbian side, since in the last months of 1995 they suffered severe losses in territory due to the Muslim-Croatian coalition offensive supported by NATO air strikes. Additionally, one of the major requests of Serbian side was fulfilled - connected Serbian territory within Bosnia. However, maps were considered overwhelmingly important by the Croatian and Bosniak side, and it took much persuasion by international mediators to make them agree on the final solution, it being reached after 21 days of intense negotiation, on 21 November 1995.⁴⁹

3.1.3. Kosovo

While the war in Yugoslavia raged and spilled over from one republic to another, Kosovo was regarded as an internal question of Serbia in the opening months of the crisis. Until 1997, there were only a few weak efforts to bring Kosovo on the agenda of the main international actors.

⁴⁸ Richard Holbrook, *To End a War* (Random House, New York, 1998), p. 236.

⁴⁹ For the details see Adriana Camisar et al., "An Analysis of the Dayton Negotiations and Peace Accords", Final Research Paper, The Fletcher School of Law and Diplomacy (2005), pp. 17 and 24.

While the Badinter commission “gave a green light” for the secession and subsequent recognition of the Yugoslav republics as independent states, Kosovo was regarded as a part of Serbia, regardless of its “quasi-republican autonomy” that lasted until Milošević illegally abolished it in 1989. As the entire negotiating process on finding a peaceful solution for the Yugoslav conflict was conducted under the framework of the principles envisaged in the Badinter Commission report, the position of Kosovo was at best marginal. While the international community put significant efforts in finding a solution where there was an open conflict between two sides (Serbian-Croatian, Serbian-Bosnian, Bosnian-Croatian), a humanitarian crisis which involved massive violations of human rights that came only from one side as it was the case in Kosovo seems to have been much less interesting. Concerning the entire peace negotiations process which lasted all the way to Dayton Peace Accords (1995), it seems that Kosovo became a sort of bargaining trump card both for the internationals and the Serbian side.

The first serious attempt to internationalize the Kosovo question was made at the London Conference where the key issue was the ongoing war in Bosnia. The attempt came from the Serbian side, more precisely from the then Yugoslav Prime Minister Panić, who tried to raise the issue of Kosovo as a means for overthrowing Milošević and weakening his position in the international community. Panić openly condemned Serbia's repression in Kosovo and, in his own words, did “not speak for Greater Serbia but for greater peace”. However, his words did not reach the Western partners, and Milošević knew how to deal with Panić. He immediately blocked him and, soon, Panić had been put on vote of no confidence in the Federal Parliament due to the fact that he exceeded his authority at the previous meetings of the London Conference, in which he made clear to Lord Carrington and Cyrus Vance his willingness to discuss issues involving Kosovo.⁵⁰ He survived the first attempt as well as the second one in November same year, but later was dismissed due to the fact that he lost presidential elections to Milošević.

Although the Kosovo question was initially sidelined during the London Conference, in the fall of 1992, the ICFY Working Group on Ethnic and National Communities and Minorities, headed by German Ambassador Geert Ahrens, set up a Special Group on Kosovo, and by means of silent diplomacy tried to mediate between Belgrade and Priština.⁵¹ However, it was impossible to tackle serious political issues, including grave human rights violations in these talks, and negotiations were primarily focused on educational issues, reopening of

⁵⁰ See Vreme News Digest Agency, No. 50, 7 September 1992. See also Dusko Doder & Louise Branson, *Milošević. Portrait of a Tyrant* (NY: The Free Press, 1999), pp. 147-165.

⁵¹ Stefan Troebst, “International Mediation in the Kosovo Conflict, 1992-1998: The Issue of Education”, *The Kosovo Crisis, Papers from a Workshop held on 18 May 1998 at Green College, University of Oxford*, Refugee Studies Programme (Queen Elizabeth House, University of Oxford, 1999), p. 13

schools and universities and adjusting school programs to the Albanian national needs.⁵²

Although vague, early attempts of the CSCE to recognize problems in Kosovo and try to prevent violence should be noted. By a decision of the 15th Meeting of the Committee of Senior Officials of CSCE, held in Prague on 14 August 1992, three Missions of Long Duration were established - for Kosovo, Sandžak and Vojvodina. According to the decision, the missions had the mandate to promote dialogue between the authorities concerned and representatives of the populations and communities in the three regions, collect information on all aspects relevant to violations of human rights and fundamental freedoms and promote solutions to such problems, establish contact points for solving problems that might be identified and assist in providing information on relevant legislation on human rights, protection of minorities, free media and democratic elections. The mission for Kosovo was based in Priština with offices in Peć and Prizren, but it was of limited duration, and due to this with very limited influence in overall crisis that developed. The mandate of the three Missions of Long Duration was originally for a relatively short period of time and was not renewed after it expired, at the end of June 1993. This was due to the fact that the Federal Republic of Yugoslavia, which had been suspended from the CSCE in 1992, announced that it would co-operate only if it were given equal status with the other participating States.⁵³

It is interesting to note that the first serious threat of unilateral US military intervention in Serbia came because of the situation in Kosovo. Partially in response to intelligence information that Milošević was planning to escalate the conflict in Kosovo, the Bush Administration warned Milošević (on 29 December 1992) that the United States were prepared to take unilateral military action, without European cooperation, if the Serbs spark a conflict in Kosovo or Macedonia, or if they use the JNA to escalate and extend the Bosnian conflict into neighbouring areas. Believing, after the events of 1991-1992, that Milošević had the desire and the capabilities to expand the war, this sudden deterrent threat was meant to contain the conflict within existing lines. The threat, known as the "Christmas warning" was given in the form of a brief message conveyed through the US Embassy in Belgrade.⁵⁴

⁵² Detailed description of the negotiations on educational issues among Priština and Belgrade can be found in Stefan Troebst, *op. cit.*, pp. 11-27.

⁵³ Basic information on these missions can be found on the OSCE official web-site <http://www.osce.org/item/15844.html>. See also US Department of State Bureau of Public Affairs, "Fact Sheet: Conference on Security and Cooperation in Europe (CSCE)", *Dispatch Magazine*, Vol. 5, No. 50, 12 December 1994.

⁵⁴ See in Caplan Richard, "International diplomacy and the crisis in Kosovo", *International Affairs*, Vol. 4, No. 74 (1998). See also in "Conflict Prevention and Crisis Management - Kosovo: The Long Road to War. A Chronology 1992-1997", British American Information Security Council at <http://www.basicint.org/europe/confprev/Kosovo/timeline2.htm>.

The idea of a UN protectorate over Kosovo emerged for the first time in April 1993 when the US Commission on Security and Cooperation in Europe sent a high-level delegation to the former Yugoslavia to make direct talks with both Albanian and Serbian leaders. As it was envisaged in its final report:

“(T)he delegation heard that the situation in Kosovo was getting worse, and that there was a need to establish Kosovo as a UN protectorate and to deploy peacekeeping troops. . . . The delegation responded by stressing that its primary concern is the poor human rights situation, noting the limited international support for Kosovo's independence. Asked whether the restoration of autonomy and a dramatic improvement in the human rights would be sufficient, at least in the short term, the Albanian leadership acknowledged that it would be a positive step since Kosovo is at the edge of war.”⁵⁵

Unfortunately, there was no sincere determination of the international community to enter into the Kosovo problem. Except for few vague statements in concluding documents of several meetings, summits and conferences, no pressure whatsoever has been put on the Belgrade authorities.⁵⁶ When peace negotiations took place in Dayton, Ohio in November 1995, Kosovo was deliberately sidelined by the US mediators. Holbrook considered that this issue was too divisive and would only stall the negotiations if included.⁵⁷ While searching for a quick peace settlement in Bosnia, the international community accepted Belgrade's game of maintenance of *status quo* in Kosovo. Although simplification and issue-subtraction strategy was necessary for reaching the final solution for the Bosnian crisis, many do feel that not mentioning Kosovo at least in the final document of the Dayton Accords was a big mistake that gave a green light to violence conducted by both Serbian authorities and Albanians in Kosovo.⁵⁸ It is highly possible that Kosovo Albanians lost their faith in peaceful methods for reaching their goals after the Dayton process. As Garton Ash describes, Albanians draw two lessons from Dayton. The first was that non-violence does not function. The second one was that the Dayton peace process recognized the facts from the ground, and therefore, violence pays off.⁵⁹ The Kosovo Liberation Army (KLA) was established immediately after the Dayton Agreement, and the increase in the attacks on Serbian police forces was

⁵⁵ United States Commission on Security and Cooperation in Europe (CSCE), "KOSOVO", *Report on The US Helsinki Commission Delegation to Romania, Macedonia, Kosovo (Serbia) and Vienna (Austria)*, April 1993.

⁵⁶ See for example Department of State Bureau of Public Affairs, "Group of Seven (G-7) 1993 Economic Summit, Tokyo, Japan, July 7-9", *Dispatch Magazine*, Supplemental Edition, Vol. 4, No. 3, August 1993.

⁵⁷ Adriana Camisar et al, *op. cit.*, p. 18.

⁵⁸ See for example Watkins, "Strategic Simplification: Toward a Theory of Modular Design in Negotiation", *International Negotiations*, No. 8 (Kluwer Law International, The Netherlands, 2003), p. 162.

⁵⁹ Timothy Garton Ash, *History of the Present* (Samizdat, B92, Belgrade, 2002), pp. 385-386.

constant ever since, until reaching its full escalation after the “Drenica massacre” that took place in February 1998.⁶⁰

Much more efforts to mediate the negotiations between Albanians and Serbs were made by international NGOs. Catholic Laymen Organization *Comunità di Sant'Egidio* of Rome actively contributed in the negotiations on educational issues,⁶¹ while Princeton-based Project on Ethnic Relations tried to organize Serbian-Albanian round tables in New York in the early 1997. However, Serbian representatives came exclusively from opposition parties (with the exception of the president of the junior ruling coalition partner, the Nova Demokratija Party), while Albanian representatives from LDK were not supported with the presence of their leader Ibrahim Rugova.⁶² As described by Allen H. Kassof, the President of the PER:

“The depth of the differences over Kosovo between Serbs and Albanians is reflected in the almost total absence of any face-to-face discussions or negotiations between their leaders during the many years since the dispute began... To be sure, the international community, including the United States, has for the time being taken the position that the Kosovo problem ought to be resolved by means of some formula (various forms of autonomy have been suggested) that would not lead to changes in the external borders of Yugoslavia. However, the Albanians have repeatedly rejected this position, and did so again in the New York meeting, appealing rather to the principle of self-determination, which they claim had been applied to others when the former Yugoslavia disintegrated. The seeming impasse grows out of the entrenched attitudes of both sides, but it is exacerbated by genuine confusion in the international community and the inconsistency of past practice in the application of these principles”.⁶³

The round table was more of a stage than a real commencement of direct negotiations between the parties. From one side, there were opposition leaders from Serbia who insisted that they did not have capacity to negotiate with the Albanians. On the other, there were Albanian leaders who insisted on the independence of Kosovo, the one request that was simply not acceptable to the Serbian side. The outcome of the roundtable was a joint declaration of the two sides, emphasizing the importance of democratization of both Serbia and Kosovo. The conclusions were:

⁶⁰ There were 18 registered KLA attacks in 1996, and 49 in 1997. “Conflict Prevention and Crisis Management - Kosovo: The Long Road to War. A Chronology 1992-1997”, British American Information Security Council at <http://www.basicint.org/europe/confprev/Kosovo/timeline2.htm>.

⁶¹ Detailed description of these negotiations can be found in Stefan Troebst, *op. cit.*

⁶² See “The New York Roundtable: Toward Peaceful Accommodation in Kosovo” (New York, 1997), at http://www.per-usa.org/ny_round.htm

⁶³ *Ibid.*

1. That Kosovo constitutes a serious problem that requires an urgent solution and that without international encouragement and assistance the current lack of confidence between the sides cannot be overcome or a lasting settlement reached.
2. The problem can only be resolved by mutual accord reached through dialogue that is entered into with no preconditions or prejudgment of possible outcomes.
3. The agreement must be based on the principles of democratization, mutual respect between the sides, respect for human rights, both individual and collective, and promotion of regional stability through respect for Helsinki principles concerning borders. An interim solution requires a democratic Kosovo and a democratic Serbia.⁶⁴

Military conflict escalated after the "Drenica massacre" in the end of February. By that time, the international community decided to take a much more active role. However, learned from the previous experience from Bosnia, internationals had taken a much more aggressive position toward Serbia than before. Initial plans were made through the Contact Group meeting in early March 1998, where the leaders of the six great powers tried to find an answer for Milošević's offensive.⁶⁵ The US and UK were standing by the position that a swift and harsh reaction was necessary, with the opposition coming from France, Italy and Russia who refused to consider a military intervention. Germany acted as a "mediator" between the groups. In the end, measures consisting of a "comprehensive arms embargo against the FRY, including Kosovo, a refusal to supply equipment to the FRY which might be used for internal repression or for terrorism, the denial of visas for senior FRY and Serbian representatives responsible for repressive action by FRY security forces in Kosovo, and a moratorium on government-financed credit support for trade and investment, including government financing for privatisation, in Serbia" were agreed. Russia refused to deny the visas or impose a moratorium on credit support. As Milošević did not comply with the demands of the Contact Group members, UN Security Council passed Resolution 1160 imposing an arms embargo on Yugoslavia and calling for autonomy and "meaningful self-administration" for Kosovo. The Security Council warned that "additional measures" were possible if no progress was made toward a peaceful solution. This vague statement was later used to legitimize NATO action that will come one year after.⁶⁶ As a response, Milošević called for a referendum, held on 23 April 1998, at which Serbian voters decided with 94,7% of votes to ban any kind

⁶⁴ Serb-Albanian Kosovo Roundtable, Jointly Agreed Positions, April 1997, at http://www.per-usa.org/serb_alb.htm

⁶⁵ Many think that the clumsy statement of the US Special Envoy to the Balkans, Robert Gelbard, about terrorist nature of the KLA gave a green light for Milošević's offensive.

⁶⁶ More about the Resolution 1160 and subsequent resolutions see in "Independent International Commission On Kosovo", *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford University Press, Oxford, 2000), pp. 69, 78, 138-141, 325-328, 345-371.

of foreign interference in Kosovo matters, regarded by them as an internal Serbian affair.

Regardless of clear threats that were coming from the West, Milošević used the summer to completely overrun the KLA. Until September, KLA was practically demounted as serious military force.⁶⁷ The answer from the West was severe. On 13 October 1998, NATO authorized air strikes if Serbian security forces were not withdrawn from Kosovo within 96 hours. After a period of intense negotiations, US Special Envoy Richard Holbrooke, representing the Contact Group, and Serbian President Slobodan Milošević reached an agreement, based on the demands made in Resolution 1199, and obviously under the threat of the NATO activation order. While the agreement was never published, its major points addressed the reduction in forces and deployment of monitors.⁶⁸ This brought cease of fire and a major withdrawal of Serbian forces from Kosovo, giving thereby the opportunity to the KLA to regroup and reorganize itself. They continued with provocations, and with new weapon and ammunition supplies were in much better position to attack weakened Serbian forces. The armed conflict again escalated in December 1998, and it was reported that the number of Yugoslav forces deployed in Kosovo may exceed the number provided in Holbrooke-Milošević Agreement.⁶⁹ As it was regarded by many, while the reliability of Milošević's commitments to this October arrangement can certainly be questioned, the evident contradiction between Holbrooke's supposed assurances and KLA actions nevertheless provided the FRY with substantial grounds to doubt the sincerity of "the West". KLA actions undoubtedly exerted strong internal security pressure in Belgrade to renew its counter-insurgency efforts on an all-out basis.⁷⁰

The trigger for the renewal of the negotiating process was the events from 15 January in the village of Račak where 45 Albanian civilians died during an operation led by Serbian police forces.

On 29 January 1998, ministers representing the Contact Group, gathered in London, demanded that representatives of Yugoslavia and the Kosovo Albanians come together under international auspices for face-to-face talks in Rambouillet, France. Furthermore, on 30 January, the North Atlantic Council issued a statement lending its support to the Contact Group initiative and threatening a forceful response in the event of non-compliance. It also granted NATO Secretary-General Solana full authority to approve air strikes against targets within the Federal Republic of Yugoslavia if events so merited.

⁶⁷ *Ibid.*, p. 75.

⁶⁸ The Holbrooke-Milošević Agreement was verified by the UN SC Resolution 1203. *Ibid.*, p. 76.

⁶⁹ Report of the Secretary-General Prepared Pursuant to Resolution 1160 (1998), 1199 (1998) and 1203 (1998) of the Security Council, *UN Doc. S/1998/1221*, 24 December 1998, p. 3.

⁷⁰ See for example "The Kosovo Report", *op. cit.*, p. 79. Also, Tim Judah, "Kosovo's Road to War", *Survival*, Vol. 41, No. 2 (Summer 1999), p. 230.

The Rambouillet peace plan was created by the Contact Group, and it was modelled to resemble the Dayton accord. It consisted of a political and a military part. The political part of the Rambouillet accord called for an immediate cessation of hostilities; partial withdrawal and demilitarization of all armed forces inside Kosovo; guarantees of civil rights; and a peace settlement that would grant Kosovo expanded autonomy within Yugoslavia in the short term, and allow a binding referendum on the province's final status after 3 years. The military part of the agreement (security annex B) provided for the occupation of the province by a NATO-led international force, with a right of access to the entire territory of the Federal Republic of Yugoslavia.

It was highly unrealistic to expect that a peace plan that provided for the possibility of future secession of Kosovo from Serbia through a referendum and the unlimited access of NATO troops in entire Yugoslavia (while the NATO was observed as an enemy force in Serbia ever since air strikes against Bosnian Serbs in 1995) would be accepted by the Serbian government. It was in fact seen as an ultimatum for unconditional surrender and capitulation. Since a majority of its provisions were non-negotiable, Rambouillet peace plan could indeed be observed as a sort of ultimatum. However, it came when nearly half of million of Albanians were already displaced from their homes, and when it became clear that Milošević will have to be stopped by force.

While the negotiations were focused on political, institutional, and economic issues, it was clear that the presence of NATO troops in Kosovo was the biggest obstacle for Yugoslav delegation. In Belgrade, Milošević was meeting a US envoy, Christopher Hill. After this meeting he has made it clear that presence of NATO troops would not acceptable not just for the Yugoslav political leadership, but also to the National Parliament regardless of political membership of the members of parliament, and all Yugoslav citizens. In other words, by accepting the terms of the Rambouillet accord, the Yugoslav delegation would be seen as accepting the loss of sovereignty on a part of its territory. Vojislav Kostunica, president of the opposition Democratic Party of Serbia shared this stand by saying that this accord foresees Kosovo to be a state with many aspects of international recognition, where the interim period only serves to hide the fact that Kosovo is no longer the part of Yugoslavia.⁷¹

The fact was that neither Yugoslav Government, nor the people in Yugoslavia were taking threats of bombing seriously by holding that such surprising indifference is deriving from the fact that nobody in the Government takes bombardment as a real alternative, and that the solely explanation is that someone will stop the bombardment in the last minute.⁷²

⁷¹ Roksanda Ninčić, "Ultimatum kontakt grupe", weekly magazine *Vreme*, No. 433, 6 February 1999.

⁷² Dragan Popović, "Pretnje niko ne shvata ozbiljno", daily newspaper *Danas*, 18 February 1999, p. 2.

The Albanian delegation at Rambouillet was composed of members of the Rugova's LDK, and the representatives of the KLA. For the Albanian delegation it was unacceptable to sign any document which would acknowledge the territorial integrity and sovereignty of Yugoslavia. The refusal of the Albanian side to sign the agreement was working in favour of Milošević since without an Albanian signature, the NATO military threat towards the FRY could not be perceived as legitimate. This is why a new round of talks was scheduled for 15 March in the *Kleber* Centre in Paris where the Kosovo Albanians delivered a promised signature, while the Yugoslav delegation called this agreement 'false' and asked for continued dialogue. The Yugoslav delegation denounced the terms of the accord as an ultimatum in violation of international law.

It could be said that, although Rambouillet talks had failed to produce a negotiated accord, they were successful in creating a pretext for military action.⁷³ On this pretext, on 19 March, the Kosovo Verification Mission was withdrawn from Kosovo, Milošević has refused to receive Holbrooke in last attempt to avoid the bombardment, and Javier Solana on 23 March 1999 ordered the beginning of the air operations against Yugoslavia.

On 24 March 1999, NATO air strikes against military installations in Serbia and Montenegro began. Only after the second month of the campaign, renewed efforts to find political solution of the Kosovo crisis commenced. Negotiators were former Russian Prime Minister Viktor Chernomyrdin, Scott Talbot representing NATO, and Finish President Martti Ahtisaari. A series of meetings between the three main negotiators became a forum within which a coordinated peace initiative was created, taking into account political declaration made by foreign ministers of the G8 which called for a solution balancing a "substantial autonomy for Kosovo in respect of the Rambouillet accord and the principle of the sovereignty of the FR Yugoslavia".⁷⁴

The Yugoslav political leadership was looking for a stop to the bombing campaign, and was looking for a way out of the crisis, but for them, it was still unacceptable to have NATO soldiers taking over the Kosovo territory. It was necessary to find a way to put NATO soldiers under the UN umbrella. In the book *Military Secret* it was described how internal negotiations unfolded in Belgrade between Milošević and Ambassador Nebojša Vujović entitled to negotiate on behalf of Yugoslavian side. Explaining how important it is to have KFOR mandated by the UN SC, Milošević is quoted as saying that "he has explained to Ahtisaari and asked him to explain as a politician to generals that this issue has tremendous political weight because he promised to Yugoslav people, and would not like to be called a liar and a traitor".⁷⁵ It was very clear that Milošević was trying to avoid signing any agreement with NATO, and thus

⁷³ See Ugo Caruso, *Interplay between the Council of Europe, OSCE, EU and NATO*, p. 79, at <http://www.eurac.edu/Org/Minorities/MIRICO/Mirico+project+results.htm>

⁷⁴ *Ibid.*, p. 81.

⁷⁵ Vladan Vlaković, *Vojna Tajna* (Helsinki odbor za ljudska prava, Beograd, 2004), p. 56.

accepting military defeat, not that he actually wanted for the UN to end this conflict. As a precondition for UN action he was forced to sign the Military Technical Agreement in Kumanovo, on 9 June 1999. Milošević agreed to Military Technical “paper” as he called it, only after he was convinced that the UN will soon after follow it with a resolution on Kosovo.

It is interesting to observe what are the differences between the Ahtisaari-Chernomyrdin agenda and the Rambouillet peace plan. First, and for Yugoslav party the most important, the entire process of conflict management had been brought back under the auspices of the UN. Second, the plan eliminated Rambouillet’s implicit call for a referendum on independence after three years, whereas any determination of Kosovo’s final status would now have to be approved by the UN Security Council in accordance with the will of the people of Kosovo. NATO forces did not get the right to operate throughout the entire territory of the Federal Republic of Yugoslavia, but solely throughout Kosovo. What can be viewed as negative for the Yugoslav party is that after military intervention it had to agree to completely withdraw all the military, police, and paramilitary forces from Kosovo, with which the deployment of the international security presence would be synchronized. All these elements were part of the 1244 UN SC Resolution adopted on 10 June 1999. The UN peacekeeping mission incorporating NATO troops moved into Kosovo, while Milošević at home was eager to present the ongoing events as a victory of his wise politics. He tried to explain how after refusing all previous initiatives he reached the best possible, bargain which was the UN guarantee of the territorial sovereignty and integrity of FR Yugoslavia.

3.2. Peacekeeping and Monitoring in the Former Yugoslavia

3.2.1. Peacekeeping troops in Croatia

The “rump” SFRY Presidency submitted an official request to the UN Security Council to send peacekeeping troops to war-torn parts of Croatia on 9 November 1991. The official request included a proposal to deploy the troops along the lines of territories inhabited mostly by ethnic Serbs in Croatia. The Presidency explained its proposal was motivated by the need to “propose to the Security Council the undertaking of specific measures with the aim of halting the armed conflicts and creating conditions for a peaceful resolution of the Yugoslav crisis” (*Politika*, 10 November 1991, p. 1). In this formal letter to the UNSC, Presidency Chairman Dr. Branko Kostić reiterated the Serbian leadership’s main political thesis that the conflict in Croatia was caused by the Croatian authorities’ attempt to secede this republic by force from Yugoslavia despite the opposition of the Serb population living in Croatia. In his subsequent elaboration of the Presidency initiative and steps the Yugoslav leadership might take in case the Croatian authorities rejected the deployment of peace troops along the division lines, Kostić said that “Yugoslavia would in

that case be left only with the following option: to declare a state of war, declare general mobilisation and employ military force to defeat the Croatian military formations and then sit down at the table and look for political solutions to the Yugoslav crisis” (Branko Kostić interview to daily newspaper *Večernje novosti*, 12 November 1991).

The opposition parties in Serbia in principle welcomed the initiative for the deployment of UN forces in Croatia to halt the conflict. The then strongest opposition party, the Serbian Renewal Movement (SPO) welcomed the request. One of its deputy leaders said that the party supported “any initiative, notwithstanding who launched it, if it brings a ray of hope that it will end the madness that has needlessly resulted in the deaths of so many young people” (daily newspaper *Politika*, 12 November, p. 5). Some other opposition parties, including the Democratic Party (DS), qualified the proposal as belated and doubted its results.

The Serbian authorities and pro-regime experts and analysts immediately began insisting on the deployment of troops along ethnic (i.e. front) lines in Croatia as the only acceptable solution. Their incessant repetition of the mantra about the bias of most of the international community (especially Western countries) was a clear warning that specific countries might back deployment of troops to Croatia’s republican borders.

3.2.2. Missions of Long Duration in Kosovo, Sandžak and Vojvodina

The decision to establish these missions was adopted on 14 August 1992. The OSCE and the FRY Government signed a Memorandum of Understanding regulating the missions’ deployment in the FRY on 28 October 1992.

The missions’ mandate was to promote dialogue between the authorities and representatives of the populations and communities in Kosovo, Sandžak and Vojvodina, collect information on human rights violations and promote solutions to such problems, and assist in providing information on relevant legislation on human rights, protection of minorities, free media and democratic elections.⁷⁶

In June 1993, the FRY government decided against extending its hospitality to the Missions of Long Duration in Kosovo, Sandžak and Vojvodina. Although numerous officials, not only those of the OSCE, had over the following years persistently and repeatedly called on the Yugoslav authorities to reconsider and allow the redeployment of the Missions, the FRY government was conditioning the extension of their mandate by the reinstatement of FRY’s membership status in the OSCE and the Missions were unable to continue their mandates.

⁷⁶ <http://www.osce.org/item/15753.html>

After the Mission was closed, the OSCE set up a special group to monitor the situation in Yugoslavia. The group met on a weekly basis and, *inter alia*, examined the member-states' reports.

In 1997, the OSCE Chairman appointed Max van der Stoep his personal representative for Kosovo and charged him with examining ways to reduce tensions in Kosovo, but the FRY authorities refused to issue Max van der Stoep an entry visa.

The Missions of Long Duration had decent relations with the FRY authorities while they were deployed. The presence of the mission members definitely gave the local communities a feeling of security. Unfortunately, the FRY authorities decided not to extend the MoU on the missions, conditioning their redeployment on the FRY's membership in the OSCE because it alleged Yugoslavia was not treated on an equal footing in the OSCE due to the suspension of its membership. The authorities established the link between these two issues only after the fact, as the Missions were established and began working after the decision on Yugoslavia's suspension had already been reached. The regime obviously wanted to use this in its conflict with the international community as an argument to help it improve the country's international standing.

The Missions could be criticised for formally equating the problems faced by minorities in Kosovo, Sandžak and Vojvodina. Such an approach is questionable in view of the fact that the relations between the authorities and majority population with the e.g. Hungarian minority in Vojvodina, the Moslem minority in Sandžak and the Albanian minority in Kosovo were not equally tense and that the status of minorities in the three regions and their existential problems, especially in the context of the armed clashes in the former SFRY, differed.

3.2.3. Kosovo Verification Mission (KVM)

The Kosovo Verification Mission (KVM) was established on 25 October 1998, in accordance with UNSC Resolution 1199. It was tasked with monitoring the abidance of all parties with the requirements the international community had set with respect to the resolution of the crisis in Kosovo. The OSCE concluded the agreement on the KVM with the then FRY Minister of Foreign Affairs, Živadin Jovanović. The Agreement laid out the tasks of the mission: to monitor the compliance by all parties with Resolution 1199 and report thereof to the OSCE Permanent Council, the UN Security Council and other organisations, as well as the FRY authorities, to maintain close contacts with the authorities of the FRY, Serbia and Kosovo, the political parties and other organisations in Kosovo and accredited international and non-governmental organizations, to monitor elections in Kosovo, report to the OSCE Permanent Council, the UNSC

and other organisations and make recommendations on issues falling within the framework of UNSC Resolution 1199.⁷⁷

KVM was the most extensive mission the OSCE had ever established and numbered 1,500 staff by February 1999. Due to the increasing deterioration of the security situation in Kosovo, the then Chair of the OSCE, Norwegian Minister Knut Vollebeck, withdrew the KVM from Kosovo on 20 March 1999, merely a few days before NATO launched the air strikes.

The KVM was not greeted with open arms by the Serbs in Kosovo or by Serbia. Serbs perceived it as an interfering and hostile mission, already supportive of the other side. It can thus be presumed that the KVM had contributed to the homogenisation of the Serbs and aggravation of their relations with the Kosovo Albanians. The Kosovo Serbs perceived the KVM as prejudiced and partial to the Kosovo Liberation Army (KLA) and the Serbian Government stoked these feelings. After bodies were discovered following a Serbian police action in the village of Račak in January 1999 and the KVM representatives accused the Serbs of massacring the civilians, the enmity and distrust of the KVM culminated.

3.3. The role of International Sanctions in Crisis Management

The European Community introduced the first sanctions against the then SFRY back in July 1991 when it embargoed arms sales to the SFRY. In early November 1991, the EU imposed an economic embargo on the SFRY. Although this embargo initially applied to the whole state that was breaking up into five independent states, the EU soon started successively lifting the sanctions against some of the states that emerged in the territory of the former SFRY. Namely, the EU called off the Trade Agreement with the SFRY and other special regimes which had afforded the SFRY privileges in its relations with the EU. It, however, simultaneously allowed the republics showing willingness to actively and constructively work on finding a compromise solution to regain these benefits. The main criterion it went by was the conduct of the leaderships of the respective republics during the Peace Conference in The Hague. Hence, the Council of Ministers excluded Bosnia and Herzegovina, Macedonia, Slovenia and Croatia from the economic sanctions introduced on 8 November 1991. The sanctions regime still applied, but only with respect to Serbia and Montenegro. After 10 January 1993, when the sanctions against Montenegro were temporarily suspended, they applied only to Serbia.

Before the eruption of the Bosnia and Herzegovina conflict, the EU sanctions against Serbia were used as a tool to ensure Serbia's "good behaviour" and thus to avoid war in this former central SFRY republic. Although the possibility to

⁷⁷ See <http://www.osce.org/item/22063.html> , and *Annual Report 1998 on OSCE Activities*, chapter 2.2.4.

suspend the trade embargo arose on 6 April 1992, when Bosnia's independence was recognised, the outbreak of the war in Bosnia, the obvious role that the Belgrade authorities and the JNA played in it, and Belgrade's evident control over the Bosnian Serb political institutions, resulted in the reintroduction of the old and imposition of additional sanctions against Serbia and the newly-created FR of Yugoslavia.

On 20 May 1992, the EC Commission submitted a list of sanctions that could be adopted against the FRY. The Council of Ministers imposed a trade embargo on the FRY on 27 May 1992. FRY's trade with the EC was blocked, scientific and technological cooperation was frozen and export credits halted. The Council advocated global sanctions against the FRY and called on the UN to impose a total embargo on the FRY, comprising a ban on exports of petrol to the FRY and freeze of its assets in foreign banks. The Council of Ministers passed a package of measures with common rules for implementing the coordinated and full trade embargo and halting air traffic with the FRY. The issues of credit treatment, blocking accounts, financial transactions and level of diplomatic relations were left at the discretion of the member-states. In early June 1992, the Council of Ministers met in Luxembourg and adopted a set of operational regulations ensuring the full implementation of the trade embargo and the suspension of all flights to the FRY.⁷⁸

Parallely with EC sanctions policy, UN took similar approach. UN Security Council adopted its first measure to restore peace in the former Yugoslavia by introducing the Resolution 713 (1991) by which it imposed an arms embargo on all warring parties in the former SFRY. Although all of the parties to the conflict found the embargo an acceptable solution that could bring the interested parties to the negotiating table, it was clear that only the Serbs (i.e. Serbia and Montenegro) benefited from it. The Serbs were overwhelmingly superior over the other warring parties in military terms⁷⁹ and the embargo helped maintain their advantage. Under UNSC Resolution 724 passed in December 1991, a UN Security Council Committee was set up to monitor the implementation of the embargo. The Committee would later play an important role in coordinating the implementation of the comprehensive economic sanctions against Serbia and Montenegro, generally considered the most effective sanctions in history.⁸⁰

⁷⁸ EU institutions forwarded their initiatives to other international institutions as well. EC Foreign Ministers, for instance, called for the FRY's exclusion from the UN in September 1992.

⁷⁹ When Yugoslavia began to break up, Serbia retained effective control of the vast resources of the Yugoslav People's Army (JNA), which was one of the best equipped armed forces in Europe, even exporting \$2 billion worth of weapons in 1990. David Cortright et al, *The Sanctions Decade: Assessing UN Strategies in the 1990's* (Boulder, CO: Lynne Rienner, 2000), p. 65. See also Reneo Lukic, Allen Lynch, *Europe from the Balkans to the Urals: The Disintegration of Yugoslavia and the Soviet Union* (New York: SIPRI, Oxford University Press, 1996), p. 295.

⁸⁰ See *Report of the Copenhagen Round Table on United Nations Sanctions in the Case of the Former Yugoslavia*, Copenhagen, 24 September 1996, available at the Global Policy Forum website at <http://www.globalpolicy.org/security/sanction/sanct96.htm>, accessed on 10

The embargo initially did prove effective to an extent,⁸¹ but it was wholly unsuitable for restoring peace once Bosnia and Herzegovina got embroiled in the conflict.⁸² This prompted the UNSC to pass Resolution 752 (1992) in mid-May 1992, demanding of the FRY to withdraw the JNA from the territory of Bosnia and Herzegovina or subject them to the authority of the government of Bosnia and Herzegovina, or to disband those units and place their weapons under international monitoring. The Resolution invoked the UN Secretary General's Report of 12 May 1992 (para. 24) mentioning the announcement of the Belgrade authorities of 4 May 1992 that they would withdraw the JNA forces and that those that remained would be deprived of authority.⁸³ As this attempt also failed, the UNSC introduced comprehensive sanctions against Serbia and Montenegro under Resolution 757 adopted on 30 May 1992. They included a ban on import and exports, cultural exchange, flights and maintenance of airplanes, participation in sports events, and lowering the level of diplomatic relations. These sanctions would remain in force until the Dayton/Paris Peace Agreement was signed in November 1995.⁸⁴ The UN had never again imposed such comprehensive sanctions on Serbia, not even during the Kosovo conflict.

Sanctions proved to be somewhat useful, but not as an effective tool as it was expected. While they certainly played a decisive role in bringing Serbian President Slobodan Milošević to the negotiating table in Dayton, and forcing him to take a moderate position during the negotiation process, it took more than four years of their effective implementation to achieve this goal. There are several reasons for this.

As Serbia's agriculture was more or less self-sufficient, Milošević could count on the sanctions, at least those limited in time, in not producing effects as disastrous as those of the sanctions that were imposed on Iraq just one year

December 2006. See also David Cortright et al, *The Sanctions Decade: Assessing UN Strategies in the 1990's* (Boulder, CO: Lynne Rienner, 2000), p. 65.

⁸¹ "The culmination was the implementing accord of 2 January 1992, which implemented a previous tentative cease-fire agreement and that effectively ended the war, brought about a cessation of hostilities in Croatia". See transcript of the testimony by Herbert Okun at the Milošević Trial in the ICTY on 26 February 2003, p. 16888.

⁸² A study of the Stockholm International Peace Research Institute (SIPRI) estimated that the forces of the government of Bosnia and Herzegovina were outgunned nine-to-one by Serbian units. David Cortright *et al*, *supra nota* 1, p. 65.

⁸³ JNA declared it was withdrawing from Bosnia and Herzegovina on 17 May 1992. Yugoslav authorities, however, alleged 80% of the troops deployed in Bosnia were citizens of Bosnia and JNA left large quantities of military materiel behind after it withdrew. These forces continued fighting in Bosnia under the name "Army of the Serbian Republic of Bosnia and Herzegovina". See the *Human Rights Watch 1992* report available at http://www.hrw.org/reports/1993/WR93/Hsw-10.htm#P671_238252

⁸⁴ Sanctions were suspended indefinitely by UNSC Resolution 1022 on 22 November 1995, and then terminated in October 1996 by UNSC Resolution 1074. They were modified on several occasions (UNSC Resolutions 787 (1992), 820 (1993) and 943 (1994)).

earlier.⁸⁵ Milošević also had reason to believe that the sanctions would not last long, above all because their consistent implementation required a major international effort and seriously undermined the economic stability of the other countries in the region. However, it became clear that these assessments were wrong when the Sanctions Assistance Missions (SAMs) were set up to help implement the sanctions and when nearly all regional organisations joined in the implementation of the UNSC measures (OSCE, NATO, Danube Commission, the EC (EU)).

By modifying the sanctions regime in response to Milošević's concessions in the negotiation process, the international community wisely used the only measure that was in their disposal against the Serbian authorities. The burden of sanctions (and prospects of their reduction) even made Milošević introduce the embargo on the Drina River, and to curb political ties with the Pale Government when they renounced the Contact Group Plan.

However, proven as being rather slow in achieving their goals, sanctions were not so widely used during the Kosovo conflict. They were regarded as highly inadequate for resolving the humanitarian crisis that was developing very rapidly. This is why the international community implemented only an arms embargo and economic sanctions directed exclusively against high Serbian officials and authorities. The primary threat for Serbia did not come from the economic blockade, but from the resolution of the Western powers to use their military capacities against Milošević.

3.4. Military Intervention

Although a military intervention was proposed in the early stages of the Yugoslav crisis by some actors (mainly Austria and Germany), it was used only twice in the late stages of the conflict (in Bosnia and Kosovo respectively).

Already in mid July 1992, Austria proposed to the Security Council the adoption of a resolution by which military intervention would commence in Bosnia. However, this proposal was rejected by the members of Security Council. As noted above, at the end of the same year the US administration sent to Milošević so-called "Christmas warning" threatening with unilateral military intervention in response to the grave violations of human rights in Kosovo.

It seems that the mere threat of air strikes against military installations on the territory of the FRY produced sufficient cautiousness in Milošević, and his willingness to make certain concessions during the war in Bosnia.⁸⁶ Under the

⁸⁵ David Cortright et al, *The Sanctions Decade: Assessing UN Strategies in the 1990's* (Boulder, CO: Lynne Rienner, 2000), p. 74.

⁸⁶ See *supra nota* 48.

pressure of economic sanctions and possible bombing he was willing to adopt every proposed peace plan since emergence of the Vance-Owen plan in 1993. Bearing that in mind, it could be said that the threat by itself, combined with economic sanctions was a reasonable tool of the Western diplomacy.

It became clear rather soon that threatening Milošević with force could not give any significant result, as he already lost control over Bosnian Serbs. After the fall of the eastern Bosnian safe areas, in mid 1995, and continuation of attacks of several other safe areas (Sarajevo, Žepa and Goražde), NATO launched Operation Deliberate Force, an air strikes campaign against Bosnian Serb forces. Although air strikes on Bosnian Serbs positions came as a tool for protection of the peacekeeping units deployed to Bosnia, they had much more political weight. From one side, they managed to decrease the percentage of the territory held by the Serbs near to those figures that were prescribed in the peace plans. On the other, it became clear to the Bosnian Serbs that this was the last time to make a deal, since a continuation of bombing combined with the Croatian and Muslim offensive would soon jeopardize the mere existence of the future "Serbian state within a state".

Military intervention in Kosovo was much more problematic. While even the mere threat of military intervention during the Bosnian war was used as the final resort, serious negotiations for tackling the Kosovo problem were commenced with such a threat flying in the air from the very beginning. All the compromises that Milošević accepted to make (such as Kosovo Verification Mission presence in October 1998), were the result of the direct and serious threat of military intervention. As noted above, the Rambouillet peace talks were held under the shadow of NATO's preparation for the air strikes campaign.

The question is whether Milošević would have agreed to establishing an international protectorate over Kosovo without a bombing campaign. Answering this question requires examining several related issues. The first are the differences between the Rambouillet plan and the plan on which Milošević eventually agreed to. The second one is to try to establish which concessions Milošević was prepared to make during the Rambouillet negotiations. The third issue is more complex as it cannot be empirically proven, but it had been largely contended by the opponents of the intervention and is concerned with actual desire of the NATO countries, most of all the US administration, to sabotage the negotiations and use force in every scenario. One must also take into consideration previous peace efforts in which Milošević and his collaborators took part, but also the fact that Kosovo was, for the first time, not only a matter of some future project for a "Greater Serbia", but a challenge to the sovereignty of Serbia proper, which involved not only the emotions of Serbian people, but also the high political and personal stakes of an autocratic regime.

The differences between the Ahtisaari-Chernomyrdin plan and the proposed Rambouillet peace accords were already highlighted in the chapter which dealt with international peace efforts in Kosovo. In essence, what Milošević succeeded to achieve after more than 70 days of bombing was putting the peacekeeping forces under the formal control of UN Security Council as well as civil administration in Kosovo and to restrict international military presence solely to the soil of Kosovo, excluding their presence on the territory of Serbia proper. Besides that, he managed to replace the provision that alluded to a future referendum on independence of Kosovo with a vague statement of determination of future status of Kosovo.

The first achievement was not a huge step forward for Milošević.⁸⁷ It is clear that it was unacceptable for the Serbian side to let NATO peace keeping forces on entire territory of FRY.⁸⁸ However, it cannot be said that these terms were non-negotiable. While there were serious concerns in the West about Russian involvement in the peace keeping efforts, since there was a threat of eventual division of the province on Albanian Kosovo (where the peace keepers from NATO countries would be deployed) and Serbian Kosovo (where Russia would have a control),⁸⁹ it is hard to believe that NATO would not accept that the entire operation be authorized by UN and be under its auspices, on the condition that it stays under the significant control of NATO headquarters.⁹⁰ That is exactly what Milošević agreed to after the bombing.

However, it is true that, unlike in the Rambouillet peace accords, the international military presence has been limited to the territory of Kosovo. Those who wish to interpret the Rambouillet peace talks as a staged performance are considering the clause of proposed accords by which the unlimited access to entire territory of FRY had been granted to NATO troops as the "killer clause", which was there to assure Serbian refusal. However, according to Robert Cook, British Foreign Secretary at that time: "If that particular technical annex was something that bothered them, we would have been very happy to have considered constructive amendments from them. They never even raised it".⁹¹ It is indeed highly possible that this issue was not

⁸⁷ However, it should be taken into consideration that he probably thought at the time of Rambouillet negotiations that NATO will not act without previous permission of the Security Council, and there he relied on Russian and possibly Chinese support.

⁸⁸ See chapter VII of the Rambouillet accords, *UN Doc. S/1999/648*.

⁸⁹ This could be seen from the negotiations between Russia and NATO after the bombing stopped and 200 Russian paratroopers came unexpectedly in Kosovo. See Phil Reeves, "Liberation of Kosovo: Talks fail to end Russian deadlock", *The Independent*, London, 17 June 1999.

⁹⁰ Even if it is accepted that NATO wanted to show its new role in the "New World Order" on its 50th anniversary, it could have done so even better if it was backed by UN SC. The Russian side never really opposed to NATO involvement, they only did not support it. With giving to Russians their share of the stake (similarly to the solution found after the bombing), Russia would almost certainly not have used its veto at the Security Council.

⁹¹ "Rambouillet talks designed to fail", *BBC News*, 19 March 2000.

raised formally during the talks. The Rambouillet agreement tried to preserve the idea of the territorial integrity of the Federal Republic of Yugoslavia and Kosovo's continuing status as part of it what was at the best interest of Serbian delegation. This was the reason why it formally had not included any territorial limitations on the application of Status of Forces Agreement.⁹² This is why it is possible that Serbian delegation never disputed these provisions during the negotiations, as they were afraid of any formal trace of division of unitary Serbian territory. But publicly, Serbian government did use these provisions of Status of Forces Agreement as the propaganda weapon. They wanted to present NATO efforts as their wish to occupy a sovereign state. It is very possible that the limitation of international military presence could have been achieved through the negotiations in Rambouillet.

The second achievement is even more problematic. The Rambouillet peace accords actually did not contain a provision on future binding referendum, at least not explicit one. The provision reads:

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

It would be useful to refer to the Fourteenth Report of the Committee on Foreign affairs of the UK Parliament in order to clarify the wording and assess *travaux préparatoires* on the provision.

The language was carefully chosen to leave open the possibility of a referendum without committing the international community to one. Marc Weller records that at the very end of the conference the Kosovo Albanian delegation came close to extracting a further concession, referring to the "*expressed* will of the people" [emphasis added], although this was subsequently rejected by the Contact Group. The reference in Article 1 (3) to the Helsinki Final Act is a reference to the principle of the inviolability of frontiers except by agreement. It is therefore clear that there was no commitment made by the United Kingdom-French co-chairs to a binding referendum on independence for Kosovo.

⁹² See "Fourteenth Report of the Committee on Defence of the UK Parliament", para. 53 at <http://www.parliament.the-stationery-office.co.uk/pa/cm199900/cmselect/cmdfence/347/34709.htm#a13>

60. However, according to the FCO, "the US sent a letter to the Kosovo Albanian delegation, noting that the US regarded the agreement as confirming the right of the people of Kosovo to hold a referendum, consistent with the provisions of the Rambouillet agreement, on Kosovo's final status." Tim Judah reproduced the text of this letter as follows:

"Rambouillet, 22 February 1999

This letter concerns the formulation (attached) proposed for Chapter 8, Article 1 (3) of the interim Framework Agreement. We will regard this proposal, or any other formulation, of that Article that may be agreed at Rambouillet, as confirming a right for the people of Kosovo to hold a referendum on the final status of Kosovo after three years.

Sincerely,

Madeleine Albright, Secretary of State."

This letter offers a different interpretation from that provided by the FCO: it appears that the US Secretary of State was offering US support for a referendum regardless of what was agreed at Rambouillet, rather than "consistent with the provisions of ... Rambouillet". It is difficult to envisage a situation where a referendum would be held and then disregarded by the international community. Thus even if the words of the agreement did not specifically provide for a binding referendum on independence, there was a ground for suspicion for the Serb side on this point. Certainly, the Albanian side continue to believe that the Albright letter represents a commitment by the USA to a binding referendum. Overall, it is clear that consistency among the allies would have helped the negotiations, and that there were occasions where unilateralism harmed progress.⁹³

But Milošević did not get anything more with the provisions of the Resolution 1244; it actually explicitly refers to the Rambouillet peace accords. In the resolution, Security Council:

"Decides that the main responsibilities of the international civil presence will include:

...

⁹³ "Fourteenth Report of the Committee on Foreign affairs of the UK Parliament", para. 59-60, at <http://www.publications.parliament.uk/pa/cm199900/cmselect/cmfaaff/28/2809.htm#n123>

Facilitating a political process designed to determine Kosovo's future status, taking into account the Rambouillet accords (S/1999/648)".⁹⁴

It is obvious that the factual consequences of the agreement were not of the primary concern to the Milošević regime. However, even if Milošević raised the question of NATO presence on the entire territory of the FRY, or managed to put some blue helmets on the heads of the NATO soldiers, and even if he managed somehow to put the future status of Kosovo in the hands of Security Council, it is unlikely that he would have agreed to the Rambouillet accords. At that time, he had no momentum in the Serbian public opinion to allow Kosovo to slip from Serbian sovereignty. Serbs would observe this as his final defeat and high-treason of Serbian expectations on which he built his entire career and authority.⁹⁵ He needed something as an excuse, and that something proved to be the military intervention, but not just any military intervention. It had to be contrary to the international law and it had to be led by an "enemy force" (and NATO was observed as such by the large number of Serbs).

This does not mean that Milošević necessarily wanted the intervention to happen. He even did not believe that it was possible for such an intervention to take place. However, when NATO started with the military campaign, Milošević swiftly changed the objectives of his war with the West. It was not preserving Kosovo, it was now turning the Kosovo problem back to the auspices of the United Nations. This gave him an opportunity to represent the end of the bombing as his victory, despite the complete withdrawal of Serbian forces from the province and of wave of internally displaced persons entering Serbia proper as NATO troops advanced.

It is possible that the NATO representatives and the US administration were aware of the fact that Milošević would not agree to give up Kosovo without a war with the West. It is even possible that they sabotaged negotiations on purpose by putting higher demands than those which would be acceptable for Serbian side. However, resolving the Kosovo problem demanded international military presence, and the situation on the ground suggested that it is needed to happen as quickly as possible. Unfortunately, it remains true that there was no political will to seriously try to conduct the entire operation through legal channels, possibly because NATO wanted to use the UN as the final argument when even force fails.

⁹⁴ UN SC Resolution 1244 (1999), para. 11, p. e.

⁹⁵ See Vesna Pešić, *Ethnic mobilization in Serbia - Country Specific Report*, on <http://www.eurac.edu/Org/Minorities/MIRICO/Mirico+project+results.htm>