

CONFERENCE REPORT OF THE ROUND TABLE

Negotiating the Balkans

A Regional Approach to a Negotiated Arrangement for the Balkans on the Way to Europe

Berlin, August 22-23, 2001



A conference in the framework of the Balkan Forum, organised by the Bertelsmann Foundation and the Center for Applied Policy Research in cooperation with the Policy Planning Staff of the German Ministry of Foreign Affairs

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On August 22-23, 2001, the Bertelsmann Foundation organised a roundtable in Berlin to debate the strategy paper *Negotiating the Balkans*, written at the Center for Applied Policy Research, the research partner of the Bertelsmann Foundation in Munich. The objective of the roundtable was to offer a framework for a thorough and frank discussion of options and obstacles for a comprehensive negotiation process in the Balkans with key actors from the region.¹ The strategy paper and the conference constituted the first synthesis of the Balkan Forum, a series of meetings of academic experts on Balkan affairs and conflict resolution² with the Policy Planning Staff of the German Ministry of Foreign Affairs in Berlin.³

1 The Western Balkans in August 2001

The current circumstances and most recent developments in the region have added to the topicality and political relevance of the conference. In Kosovo, the Albanian and Serb elites are gearing up for the parliamentary elections on November 17, 2001. With the election of a parliament, the Constitutional Framework for Provisional Self-Government – proclaimed on May 15, 2001 - will be implemented. Only days before the conference, Slavic and Albanian parties from Macedonia had completed their negotiation and signed the Framework Agreement (August 13, 2001) to preserve the integrity of the state and the multi-ethnicity of society. Meanwhile, on the eve of the conference, Montenegro's president Milo Djukanovic had met Predrag Bulatovic, the leader of the opposition, for consultations on the future status of the republic: Since the parliamentary elections in April 2001, the issue of a referendum on independence has dominated the domestic political agenda in Podgorica. Similarly, the opening of negotiations on future relations between Serbia and Montenegro, the negotiated arrangement for the Presevo Valley as well as the most recent proposals of the Yugoslav Kosovo Commission have intensified the dialogue in Belgrade, also within the Democratic Alliance of Serbia (DOS), which faced its first crisis at the time of the conference. Simultaneous demands for full autonomy from Vojvodina underlined the urgency of regional negotiations on a range of issues involving state sovereignty, devolution, inter-ethnic relations and minority regimes.

One objective of the conference was to bring together key actors from Serbia, Montenegro, Kosovo and Macedonia representing diverging views on arrangements of nation and state building. In the case of *Macedonia*, both major Albanian parties

¹ Please note that the conference was held under Chatham House rules.

² For a list of regular members of the first round of the Balkan Forum, see page 7.

³ For more information on the Balkan Forum (downloads of the experts' reports and the strategy paper) as well as on other joint Southeast European activities of the Bertelsmann Foundation and the Center for Applied Policy Research, see the respective websites: www.cap.uni-muenchen.de/mitarbeiter/meurs.html and www.bertelsmann-stiftung.de/project.cfm?lan=de&nid=125&aid=1443.

were represented, although, unfortunately, the Slavic Macedonians were not. The delegation from *Belgrade* mirrored a broader range of views existing within the DOS coalition as well as in the FRY and Serbian governments. The *Montenegrin* delegation included both advocates and antagonists of independence. On the part of *Kosovo*, both the three largest Albanian parties and Serb communities from northern Kosovo were represented.

2 Key Arguments from the Strategy Paper

The strategy paper⁴ envisages a comprehensive post-Milosevic regional negotiation process oriented towards sustainable arrangements for the unresolved issues rooted in the violent and unregulated disintegration of the Socialist Federal Republic of Yugoslavia in the past ten years. At the same time, the negotiation process might address future-oriented issues of regional and European integration. Therefore, while enumerating the issues requiring a negotiated arrangement on a regional or bilateral basis, the strategy paper offers a framework of both normative and practical preconditions for such a negotiation process rather than concrete solutions for the issues under dispute. The key arguments of the strategy paper may be summarized as follows:

- Window of opportunity
 - In an incremental process, starting with the change of regime in Zagreb, achieving a new quality with the fall of Milosevic and ending with the upcoming parliamentary elections in Kosovo, the Balkan region has created a window of opportunity for a negotiation process. Each state and state-like entity will then have a democratically legitimised government committed to economic reform, non-violent conflict resolution, regional co-operation and European integration.
 - The disputed issues on the regional negotiation table are linked in political praxis, even if not in the legal terms of international or constitutional law. Therefore, a comprehensive regional process towards a final arrangement should take precedence over issue-by-issue unilateral decisions or separate bilateral agreements.
 - Ultimately, the status of Kosovo and Montenegro belongs to the agenda of the regional negotiation process. Initiating a negotiation process in the short term and creating a perspective for a final arrangement does not conflict with the international consensus on longer, concise interim

⁴ Please note: The version of the strategy paper attached to the conference report is a "post-conference update": The original paper of August 17 has been slightly modified to eliminate minor inconsistencies, omissions and ambiguous phrases without, however, making concessions to the positions of conference participants in the substance of the strategy paper.

arrangements. As such, an option of independence would not be incompatible with international policy as long as current borders are respected (i.e., upgraded to state borders, but not changed geographically) and as long as independence would be the result of a fair negotiation process.

- Preconditions and pre-negotiations
 - Pre-negotiations should clarify the agenda, solve the issue of representations and determine the procedures. Key precondition for opening the actual negotiations is the signing of a formal declaration including the authorisation of the international mediators and a catalogue of binding principles.
 - The Yugoslav and Serbian authorities in Belgrade would have to accept their counterparts in Podgorica and Pristina as equal negotiating parties, but not as independent states. Similarly, the democratically elected authorities in Pristina would have to accept both the Yugoslav and Serbian authorities as equal negotiating parties. This can only be achieved if both sides publicly confirm that this acceptance for the sake of negotiations does not prejudice any decision on the unresolved status issues. Consequently, the negotiation process precludes unilateral steps pertaining to the status of Kosovo and Montenegro.
 - The EU is the international actor best placed to define framework conditions for both the negotiation process and the resulting agreements as well as to provide mediation and incentives for constructive and responsible participation in the process. Procrastination both in the pre-negotiation phase and in the subsequent negotiations would have to be curbed by the conditionality of international assistance and the political leverage of both the EU and others (USA, UN, IMF) to provide positive and negative incentives.
- Objectives
 - As the objective of stability on the Balkans cannot be achieved by the selective application of either the principle of national self-determination or the principle of the status quo of sovereign states, regional stability has to be declared the key principle. Only *functioning* states (in terms of market economy and good governance) can counter nationalist conflicts and erode the trend of state fragmentation along ethnic lines.
 - Stabilising a region of *functioning* constitutional states has priority in the process, as the relentless assertion of rights of national self-determination would result in ever-more fragile states striving for European alimentionation rather than integration.

- Irrespective of its final status, Kosovo has to be turned into a functioning (i.e., responsible and self-governing) state-like entity in the short term to allow for a process of market-reform and democratisation to take shape.
- After a decade of regional conflict and with the long strenuous process towards EU membership ahead, neither regional integration alone nor the European integration alone can stabilise the Balkans. The only viable option to achieve progress in building functioning state structures is a robust combination of regional and European integration.

In sum, by proposing a negotiation *process* with regional *ownership* the strategy paper with the EU in a prominent role as facilitator and guarantor of the process, the strategy paper distinguished itself from other propositions in the ongoing debate on the future of the Western Balkans in general and the FRY in particular as well as the final status of Kosovo and Montenegro. The essential distinction concerns our fundamental misgivings about any *Diktatfrieden* - the prescription and imposition by the international community of any "solution" to the key problems of the region. Therefore, the negotiations are essentially designed as an open-ended process, allowing for different outcomes within a certain normative framework. Conversely, other proposals have championed specific outcomes, be it the preservation of the current federation in one form or another or the independence of Montenegro and/or Kosovo.⁵ Similarly, the principle of regional ownership and responsibility precludes any idea of a "Balkan conference" as recently circulated in the media.⁶ Instead of *one* meeting of great powers and statesmen with distinct reminiscences of nineteenth-century events like the 1878 Berlin Congress rearranging states and the balance of power on the Balkans, an orchestrated negotiation *process* requires parallel series of negotiations on different levels, each dealing with specific issues. A high-profile Balkan conference, initiated by the countries of the region in co-operation with the European Union, might be *part* of such a process.

The conference fully confirmed the fundamental assumption of the Balkan Forum and the strategy paper: Although the participants disagreed on many issues, a broad consensus exist that - both from a regional and from an international perspective – a negotiation process in regional ownership is the only promising way out of the current deadlock of inter(b)locking issues and conflicts, the only way to self-sustaining regional stability. Thus, former issues are now debatable and may soon be negotiable: Defining one's own position implies a commitment to negotiations and so does accepting other positions as equally legitimate. There is an increasing readiness to define constructive, albeit contrasting positions on the outstanding

⁵ Most prominently: The Kosovo Report: Conflict, International Response, Lessons Learned (Oxford: Oxford U.P., 2000).

⁶ Sverker Aström, "It Will Take a General Balkan Conference to Clean up the Mess," International Herald Tribune 28.06.2001.; "Lord Owen Seeks Peace Conference for the Balkans," RFE/RL Newswire 06.06.2001.

issues, generally including the future status of the FRY, Serbia, Montenegro and Kosovo. Therefore, the international community would be well advised to lift the ban on these former taboo issues in the post-Milosevic window of opportunity and design a robust negotiation process opening a perspective for regional arrangements in the long term instead.

3 The Round Table in Berlin, August 22-23, 2001

The fact that so many representatives of diverging and contrary positions on the future of the region, the FRY and/or specific states and state-like entities heeded the invitation of the Bertelsmann Foundation demonstrates that a window of opportunity for negotiated arrangements does exist. In terms of political culture, broad acceptance of other positions and interests as relevant factors to be taken into account informed the dialogue in Berlin: The ethnic claim of the Albanians and the historic claim of the Serbs to Kosovo are both valid, albeit at odds. Both sides expressed willingness to take this very insight as a point of departure for a future arrangement. Typically, past-oriented arguments referring to historic events and the atrocities of the last ten years were the exception in the intense and controversial dialogue.

The report gives an impression of the general atmosphere and summarises the presentations and debates during the four panels of the round-table conference, offering a fair and balanced recapitulation of the discussions on the key issues without, however, claiming completeness and exhaustiveness.

3.1 Conference Participants

Franz Lothar Altmann	<i>Head, Southeast Europe, German Institute for International Policy and Security (SWP), Berlin; Executive Member of the Board, German Association for East European Studies, Munich</i>
Florian Bieber	<i>Regional Representative, European Center for Minority Issues, Sarajevo</i>
Milovan Bozinovic	<i>Ambassador of the Federal Republic of Yugoslavia, Berlin</i>
Marta Dassu	<i>Director of Policy Programs, ASPEN-Institute, Rome</i>
Caroline Fetscher	<i>Balkan Correspondent, <u>Der Tagesspiegel</u>, Berlin</i>
Michael Fluegger	<i>Deputy Head, Task Force Western Balkans, German Ministry of Foreign Affairs, Berlin</i>
Hans-Peter Furrer	<i>Special Envoy on the Federal Republic of Yugoslavia of the Secretary General, Council of Europe, Strasbourg</i>
Ardian Gjini	<i>Secretary for International Relations, Alliance for the Future of Kosovo, Pristina</i>
Frank Herterich	<i>Member of Policy Planning Staff, German Ministry of Foreign Affairs, Berlin</i>
Ylber Hysa	<i>Executive Director, Kosovo Action for Civic Initiatives (KACI), Pristina</i>
Skender Hyseni	<i>Political Advisor to the President of the Democratic League of Kosovo (LDK), Pristina</i>
Oliver Ivanovic	<i>President, Serbian National Council, Mitrovica</i>
Josef Janning	<i>Vice President, Bertelsmann Foundation, Guetersloh; Director, Bertelsmann Group for Policy Research, Center for Applied Policy Research (CAP), Ludwig-Maximilians-University, Munich</i>
Tom Koenigs	<i>Deputy Special Representative of the Secretary-General, United Nations Interim Administration Mission in Kosovo, Pristina</i>

Haralambos Kondonis	<i>Special Advisor to the Chairman of The First Working Table – Stability Pact, Ministry of Foreign Affairs, Athens</i>
Dragan Koprivica	<i>Spokesman, Socialist People´s Party (SNP), Podgorica</i>
Zarko Korac	<i>Professor; Deputy Prime Minister of the Republic of Serbia, Belgrade</i>
Ranko Krivokapic	<i>Chairman of Human Rights Committee; Member of the Montenegrin Parliament, Podgorica</i>
Hajredin Kuqi	<i>Professor, Faculty of Law, University of Pristina</i>
Branko Lukovac	<i>Minister for Foreign Affairs of Montenegro, Podgorica</i>
Shkelzen Maliqi	<i>President of the Board, Center for Humanistic Studies “Gani Bobi”, Pristina</i>
Wim van Meurs	<i>Senior Researcher, Bertelsmann Group for Policy Research, Center for Applied Policy Research (CAP), Ludwig-Maximilians-University, Munich</i>
William L. Nash	<i>Senior Fellow and Director, Center for Preventive Action, Council on Foreign Relations, Washington D.C.</i>
Dusan Pavlovic	<i>Researcher/Associate, The Belgrade Centre for Human Rights, Belgrade</i>
Azis Polozhani	<i>Vice-President of the Party of Democratic Prosperity (PDP); Member of Macedonian Parliament, Skopje</i>
Gazmend Pula	<i>Executive Director, Helsinki Committee, Pristina</i>
Nenad Radosavljevic	<i>President of Leposavic Municipality</i>
Goran Rafajlovski	<i>Ambassador of Macedonia (designated), Berlin</i>
Matthias Rueb	<i>Correspondent for South-Eastern Europe, <u>Frankfurter Allgemeine Zeitung</u>, Budapest</i>
Joachim Schmillen	<i>Head, Policy Planning Staff, German Ministry of Foreign Affairs, Berlin</i>
Joscha Schmierer	<i>Member of Policy Planning Staff, German Ministry of Foreign Affairs, Berlin</i>

Ulrich Schneckener	<i>Senior Researcher, Institute for Intercultural and International Studies, Bremen University</i>
Bruno Schoch	<i>Senior Researcher, Peace Research Institute Frankfurt (PRIF), Frankfurt</i>
Blerim Shala	<i>Publisher of Daily "Zëri", Pristina</i>
Aleksandar Simic	<i>Member of Federal Committee for Kosovo & Metohija, Belgrade</i>
Predrag Simic	<i>Professor; Foreign Policy Advisor to the President of the Federal Republic of Yugoslavia, Belgrade</i>
Dragan Soc	<i>President, People's Party (SN), Podgorica</i>
Radoslava Stefanova	<i>Head of the South-East Europe Program, Istituto Affari Internazionali (IAI), Rome</i>
Rita Suessmuth	<i>Professor; Vice-President OSCE Parliamentary Assembly and Head of OSCE Ad Hoc Committee on Kosovo, Macedonia and Serbia, Vienna; Member of Deutscher Bundestag, Berlin; Member of the Board of Trustees, Bertelsmann Foundation, Guetersloh</i>
Veton Surroi	<i>Publisher, KOHA Media Group, Pristina</i>
Dimitrios Triantaphyllou	<i>Research Fellow, Institute for Security Studies of WEU, Paris</i>
Stefan Troebst	<i>Professor of East European Cultural Studies at the University of Leipzig and Deputy Director of the Leipzig Center for History and Culture of East Central Europe</i>
Jelena Volic-Hellbusch	<i>Head, Project Office FRY, Boell Foundation, Belgrade</i>
Stefani Weiss	<i>Program Director, Politics Division, Bertelsmann Foundation, Guetersloh</i>
Monika Johanna Wohlfeld	<i>Head of External Co-operation, OSCE, Vienna</i>
Andres Wysling	<i>Foreign Editor, <u>Neue Zürcher Zeitung</u>, Zuerich</i>
Arben Xhaferi	<i>President, Democratic Party of Albanians, Skopje</i>

3.2 Conference Program

Wednesday, August 22, 2001

7:30 pm **Presentation of Strategy Paper: „Negotiating the Balkans“**
Josef Janning

Thursday, August 23, 2001

9:00-10:45 am **Panel A: From Regional Fragmentation to EU Integration**

Chair: Tom Koenigs
Introduction: Franz-Lothar Altmann
Comments: Zarko Korac
 Hans-Peter Furrer
 Shkelzen Maliqi

11:15-01:00 pm **Panel B: The Yugoslav Federation: Fiction or Future?**

Chair: Veton Surroi
Introduction: Wim van Meurs
Comments: Branko Lukovac
 Predrag Simic
 Ardian Gjini
 Dimitrios Triantaphyllou

2:30-4:15 pm **Panel C: Requirements for Regional Stability**

Chair: Rita Suessmuth
Introduction: Stefan Troebst
Comments: Aleksandar Simic
 Skender Hyseni
 Arben Xhaferi
 Monika Johanna Wohlfeld

4:45-6:30 pm **Panel D: New States and New Minorities**

Chair: William L. Nash
Introduction: Bruno Schoch
Comments: Ylber Hysa
 Nenad Radosavljevic
 Hajredin Kuqi
 Ivo Krivokapic
 Florian Bieber

3.3 Conference Report

The strategy paper *Negotiating the Balkans* had been designed to lead off and structure the discussions on the complexity of current Balkan issues. Therefore, each of the four panels mirrored a key argument from the strategy paper. The report summarises the subsequent discussion, identifying commentators by country and/or nationality whenever relevant and appropriate, but without distinguishing between opening statements by the speakers and contributions by other participants. The italics at the beginning of each panel's summary reiterate the relevant key arguments from the strategy paper, those at the end highlight key dilemmas and issues for further discussion and study.

Panel A: From Regional Fragmentation to European Integration

The topic of this panel refers to what chairman Tom Koenigs identified as the time lost during the past decade on the road towards European integration for the Balkan region. After a process of regional disintegration and fragmentation, there now is a broad regional consensus concerning integration in Europe as the only viable option for the region. Whereas Europe's irrevocable commitment to the region has become a matter of course, the obligations the European perspective implies for the region are passed over in silence too often: These obligations and common European standards ought to shape both the domestic process towards functioning states and the regional negotiation process towards a self-sustaining arrangement among the states of the region. Both domestically and regionally, the European consensus sets the agenda and rules out certain policy options without, however, predetermining the resulting arrangements. Last but not least, the perspective of European integration and the commitment of the countries of the region also raises the question of the role of regional integration in this process: Recommending a "regional approach" has become a set phrase, but its implementation is lagging behind.

The discussions revealed a broad consensus on the window of opportunity for the stabilisation of the region, created by the changes of regime in Croatia and Serbia/FRY as well as by the common interest in becoming full members of the European Union, shared by an absolute majority of the elites and peoples throughout the region. This common perspective is the driving force for the region, the most integrative process, in contrast to the alternative process of regional disintegration. Broad agreement existed that "negotiating the Balkans" is a genuine European task.

A more controversial issue concerned the perspective of EU integration for the states of the region. Most participants who spoke on this topic (both from EU member states and from the region) deplored the tendency to ignore the conditionality attached to international assistance and in particular to the perspective towards EU accession. An Albanian from Kosovo deplored the tendency to perceive European integration as a one-way process, expecting assistance, but not obligations and criteria. Therefore, the EU would be well-advised to uphold the conditionality and roadmaps of the

integration process. A participant from Belgrade similarly envisaged a protracted process towards EU integration carefully monitoring and guiding progress made in the potential candidate-states. Conversely, another Albanian participant from Kosovo insisted on dealing with the Balkans as part of a broader European strategy of stabilisation, encompassing both Eastern enlargement and relations with Russia. He concluded that such a broad strategic approach and an explicit European promise would lead to an accelerated integration with less conditions: Negotiating the Balkans is negotiating Europe. A contrasting view came from another Albanian Kosovar, who argued that the process of European integration would be best served by fair and transparent criteria for each country and a healthy competition among the countries of the region on their individual roadmap to Europe. A representative of an international organisation added that such a roadmap of small steps is still missing, a deficit on the EU side. In the discussions the conditions of EU integration for the region and its individual states were underlined by several commentators: reconciliation of ethnic groups, arrangements for the unresolved status issues, willingness to engage in regional co-operation as well as the protection of human and minority rights.

The question in the title, pointedly phrased by Franz-Lothar Altmann as the level the spiral of regional disintegration will have to reach before (regional or European) integration becomes the dominant force, was discussed time and again. The idea that independence for Kosovo and/or Montenegro would evoke similar aspirations in Vojvodina or Sandzak was rejected by participants from Belgrade, who argued that politicians from Novi Sad demand only autonomy, and quite justifiable so. The same scenario, however, is more of a real possibility in the case of Kosovo and its Mitrovica problem, as outlined by Serbs from Kosovo, although the Serb participants did not champion the idea of further disintegration. An Albanian Kosovar stated that like in the European case, regional stability and integration can only start once the process of disintegration has been completed by creating a region of naturally stable and sustainable entities. Tongue in cheek all agreed on this formula, while disagreeing on the level of disintegration that would guarantee stable and sustainable units for regional integration. Here again, the comment applies that of the current historic drive in the region is for state formation rather than regional integration, both the international community and the region should be more concerned about the concept and quality of a new state than about the apparently unstoppable process towards the creation of new states. The Stabilisation and Association Agreements might serve as an appropriate instrument to set specific guidelines and criteria in this respect for each country in the region, to monitor the political praxis of newly created states, as the participant from Belgrade noted.

Referring to the Serb enclaves in Kosovo a Serb Kosovar proposed a contrasting mode of integration for this micro-level, but also as a potential role model for the entire region: He argued that separate economic development with EU support might in the end be the shortest way towards reconciliation and – as economic

development reduces conflict potentials and generates an impetus for co-operation – also towards political stability. A critic of this view underlined that Western support (i.e., investment) will not be forthcoming until political and economic stability can be guaranteed.

Although the regional approach was generally applauded, doubts were voiced – not only from the region – to what extent the European Union is genuinely committed to this approach as the Stability Pact has so far failed to play the leading role in this process. The policy dilemma of an individual roadmap to EU accession for each country of the region and the collective requirements of regional co-operation, however, was reflected in the participants' statements, citing for instance the regional approach as "decisive", while demanding a country-by-country approach as well, to take into account the specificities of each within a region still hesitant to conceive of itself as a region. (Some participants rejected the term "Balkans", whereas others championed a new regional self-confidence and a positive redefinition.)

Several Albanian Kosovars highlighted a final solution for the status issues and a new quality of borders in the region (more secure and at the same time more permeable) as prerequisites for the regional approach. In line with the strategy paper, they argued that after the Kosovo elections a negotiation process should be initiated with Kosovo as an equal negotiating partner to resolve the status of FRY and Kosovo. Conversely, a Serb participant from Belgrade deplored the use of "post-modern" terms such as "state-like entities" in the strategy paper, as this term contradicts constitutional and international law.

Several participants pointed out that a strategy for a regional security approach is conspicuously missing, both in the strategy paper and in international policies for the region: It might be crucial to reduce perceived threats within the region. The natural lead organisation for such a regional security architecture would be NATO, also to give the international military presence in the region a more solid basis.

Participants from Belgrade and Pristina agreed that states should not be judged by their ethnic homogeneity or historicity, but only by their qualification as functioning states, both domestically and in their relations with neighbouring states. The advisability and consequences of the Balkans' current trend towards state-formation – in contrast to the wider European process of supranational and intergovernmental integration – were seen from different perspectives even among participants from Belgrade: One argued that the problem is the illusion that a state has to be a mono-ethnic unity in order to be stable and successful. Thus, the creation of sovereign independent states as such is not the problem. Another pointed to the danger of ethnic nation-building and corresponding homogeneous states, reciting the casualties and destruction of the past ten years as a warning and pointing to a tendency in both Brussels and Washington to prefer mono-ethnic states. The same participant made a point by underlining that ethnic conflict has not come to an end in the Balkans, despite the fact that Milosevic is now a prisoner in The Hague. An Albanian

participant from Macedonia developed the trend of functioning states by arguing that the implementation of social realities in political structures is key to the consolidation of multiethnic states and regional stability: With the recent Skopje agreement Macedonia will finally become a functioning state in that sense by implementing the multiethnicity of society in politics, a reality Macedonian politicians preferred to ignore for ten years.

Some participants doubted that the region has the capacity for regional ownership of a future-oriented process of negotiations, without a strong European and international leadership. A representative of an international organisation, however, noted that regional ownership begins with “putting your own house in order” by creating a modern, functioning state. Several participants noted that obviously the interest in regional ownership is much more prominent when issues of sovereignty and national pride are concerned, but less so in the process of European integration and the implementation of the European standards conditional to this process.

In an optimistic note, a Serbian participant from Belgrade envisaged a regional process of “negotiating the Balkans” to begin quite soon - with Western assistance and mediation, but in regional ownership and therefore quite different indeed from the 19th-century style conferences which ended with Dayton.

Regional integration and regional ownership of the process can only be realistic options if the political will and the corresponding strategies are available at both the European level and at the level of the states and state-like entities in the region. For the region this implies that the consolidation of functioning, democratic entities has the highest priority, for Europe it implies a focussing of strategic involvement.

Panel B: The Yugoslav Federation: Fiction or Future?

From the perspective of international law, the current Yugoslav Federation remains the successor state to the Socialist Federal Republic of Yugoslavia (SFRY) and the only sovereign state, despite the fact that its authority is de facto in next to all policy areas limited to the territory of the Serbian Republic with Kosovo under UN mandate and Montenegro by and large acting as if it were an independent state. The incongruence of de facto and de jure authority hampers the reform processes in all entities involved, including the Serbian Republic. Rather than concluding that a final solution for the unresolved status questions is a prerequisite for sustainable reform, however, it is argued that functioning states (or state-like entities) are the key precondition. Thus, a broadly based interim arrangement might suffice to stimulate regional and national reform processes. The question remains whether the FRY is a stumbling block for the completion of regional disintegration and for regional stabilisation or whether it actually is the last bulwark against ethnic disintegration and further conflict. From a different perspective, the added value of the FRY over its main and de facto only constituent republic Serbia is a relevant question too.

Evidently, the question whether or not the FRY is already, as some participants phrased it, “irrelevant”, “a dangerous fiction” or “belongs to the past” for the future arrangements in the region attracted quite some attention in this panel. Serbian participants took issue with the formulations “defunct” and “dysfunctional” in the strategy paper by underlining that the post-Milosevic FRY is not only an internationally recognised and respected state, but also a functional state in the sense that it honours its international obligations and respects human and minority rights. One participant from Belgrade elaborated on the challenges the FRY has mastered since: Managing the crisis in the Presevo Valley without violence, non-interference in the Montenegrin elections, and the co-operation with the Hague Tribunal (ICTY). Whereas these Serbs stressed the new quality of FRY policies and whereas some Montenegrins underlined the slogan “democratic Montenegro in a democratic federation” as the motto they share with the international community, other Montenegrins and Albanians insisted on the irreparable legacy of the past, with the federation incorporating dictatorial rule and the suppression of the people’s democratic urging to be sovereign. Some Kosovar Albanians acknowledged fundamental changes in Belgrade’s policies under the heading “window of opportunity”, while others insisted Belgrade had so far failed to confess to its war guilt. By contrast, the representative of an international think tank noted that the change of regimes and political elites in the region (with Djukanovic now being the longest-ruling politician!) implies the right to a new beginning, new ground for dialogue. Additionally, a Serbian participant challenged the would-be states to live up to the standards of state functionality and legitimacy now fulfilled by Yugoslavia.

When “functionality” is understood in the sense of the strategy paper – exercising full sovereignty over the two constituent republics Serbia and Montenegro as well as the province of Kosovo – the FRY is far from a functional state. Thus, most participants seemed to agree that there is a need for clarification and negotiated arrangements. Similarly, Serbs and Albanians agreed to the implication from the strategy paper that functionality and credibility requires state-like entities to act as a state before achieving recognition as a sovereign state rather than vice versa.

The rhetorical question as to the relevancy of a dialogue between “Belgrade and Belgrade”, between Serbia and FRY as a logical complement to Belgrade’s dialogue with Podgorica and eventually Pristina sparked a heated debate. As a participant from Belgrade argued the current government crisis does not affect Belgrade’s capability as an international actor, and Belgrade does have a well-defined position on the issues of Montenegro and Kosovo. A participant from Podgorica claimed that the federal structures are a burden for Serbia too, an unnecessary duplication of administration and a waste of resources.

Those participants who considered the FRY defunct, by and large considered full independence a precondition for the initiation of new (sub-)regional or bi-/trilateral forms of co-operation or association. As a Kosovar Albanian phrased it, his people had seen three Yugoslavia’s and were quite unwilling to try a fourth one: The bloody

divorce of the Kosovo War reconfirmed that Yugoslavia connotes oppression. Some nations in the Balkans, he argued, simply need to feel sovereign for once. Montenegrins favouring independence expected Serbia and Montenegro as two independent and equal partners to come to new arrangements that might serve as a role model for the whole region, bypassing the defunct FRY. Not unlike the European model, they might delegate parts of their full sovereignty to a common institution. Podgorica, they said, is only waiting for a positive response from Belgrade to start this process.

The participating Montenegrins noted *uni sono* that the case of Montenegro and Kosovo are constitutionally and historically quite different indeed and should not be seen as a linkage. Conversely, the Kosovar Albanians failed to make a statement to the relevancy of the Montenegrin case for Kosovo. Proponents of independence described the process of federal disintegration and state formation in the Balkans as “unfinished”, making its completion a precondition for an equilibrium, i.e. all negotiating partners having equal status and full sovereignty. According to one, Milosevic’s 2000 constitutional changes ended the third Yugoslavia as a federation that had been unequal and oppressive from the Montenegrin perspective more or less from its 1992 beginnings. Referring to the question of the sequencing of independence and a new arrangement, a Western participant noted the danger of a separation without the mechanisms of integration built into it, highlighting the potential for integration available in the platform documents even before tackling the issue of FRY status. Pro-independence participants, however, favoured negotiations with Serbia to any dealings with the federation. Those who preferred “a democratic Montenegro in a democratic federation” pointed to the 50/50 split of Montenegrin society in the independence issue and Djukanovic apparent hesitation to call a referendum. A fellow-countryman, however, underlined that the democratically elected government of Montenegro is determined to hold a referendum on independence in due course.

Typically, in the discussions on the status of Kosovo none of the participants alluded to the option of unilateral solutions or the redrawing of borders. Serbian participants from Belgrade and Kosovo applauded the upcoming elections and the subsequent process of institution building as such, but also pointed to the deficits in the equal participation of the Serbs and other minorities in this process. More than one of them hinted at this demand of equal participation in a multiethnic and multicultural Kosovo as a precondition for a dialogue between Belgrade and Pristina. In a positive note, a Kosovar Albanian noted that both Serbs and Albanians have already come a long way. Another Serbian participant from Kosovo took issue with the strategy paper’s statement concerning the acquired democratic quality of the borders, despite their arbitrariness by pointing to the fate of the Serb minority in Mitrovica and other enclaves. A Serbian participant from Belgrade in this context reminded the audience of the crucial importance of a return of refugees to Kosovo.

The opening question concerning the mechanisms and lead organisation for a negotiation process on status issues, guaranteeing equality of the parties remained. And how to break the deadlock of non-recognition and constitutional chaos. A western participant noted Belgrade and Podgorica did a crucial first step by formulating their positions and interests in the respective platforms, a model that might be applied to the Kosovo case too.

Participants - both from the region and from Western Europe – noted that “the West” and the EU more in particular are increasingly living up to the challenge of taking the lead in the stabilisation of the Balkans, Macedonia being the best example of Europe getting its act together in recent time. In the past, Europe and the US have too often sent the wrong messages and confused signals: They appearing to work with their preferred partners for stability in the region rather than with a set of normative principles. Making the rights and obligations involved in EU integration explicit might resolve some of the misgivings in the region about a prospective process of undetermined duration.

As far as negotiations are concerned, the key question remains whether the current window of opportunity is for negotiations on the obviously deadlocked status issues or rather for more practical, negotiable issues of integration where a win-win situation can be reached and common ground can be found between the parties. Agreement on practical issues might then, as some western participants argued, prepare the ground for the strenuous negotiations on the unresolved status issues. Another participant from an international organisation made a clear distinction between a 19th-century conference of great powers, associated with quick-fix solutions and redrawing of borders, and a negotiation process in regional ownership as envisaged by the strategy paper. Nevertheless, the participant doubted that the common European interest is strong and determined enough to initiate such a process as a further disintegration would create more potential candidates for EU alimention and eventually EU accession.

Much depends on the Serb participation in the upcoming Kosovo elections: A substantial participation by the Serb minority in the elections would open the door to a dialogue between Belgrade and Pristina as well as between majority and minorities in Kosovo itself. Serbian participants applauded the democratic process and institution building in Kosovo, while reiterating the criterion of the functionality and the concept of a state or state-like entity.

Panel C: Requirements for Regional Stability

The strategy paper distinguished two sets of requirements for regional stability: issues of disintegration and issues of integration. The challenge for the region is to move from the divisive to the integrative issues. Whereas most of the issues of disintegration require unpopular compromises pertaining to sovereignty-sensitive issues, typically for the issues of integration win-win arrangements are feasible. As

the divisive issues are the result of the uncontrolled process of federal disintegration and ten years of conflict, settling these issues requires arrangements rather than solutions, where both the current status quo and the status quo ante have to be taken into account. Again, the possibilities for regional co-operation prior to dealing with the various status and sovereignty issues remains open to debate.

How to move from issues of disintegration as unresolved legacies of past conflicts (e.g. legal succession of states, border demarcation, international security guarantees, the return of refugees and the integration of non-citizens) to issues of integration (e.g. functional forms of co-operation, visa border regimes, cross-border co-operation and co-ordination in foreign policy and military affairs)? Especially functional co-operation in, for instance, a free-trade zone points forward to a future integration in Euro-Atlantic structures. In a future enlarged EU with 30 or more member states, the small and medium-sized countries can achieve some policy influence only as a group. Many – Serbs and Albanians - expressed their doubts if the region is yet ready for a negotiation process including the status issues.

Quite remarkably, a Kosovar Albanian formulated a provocative thought experiment of a limited period of a stable Kosovo entity without independence and its requirements for being a functioning state-like entity without sovereignty. These requirements included a democratic process in the entire region (as seen with the fall of Milosevic, the Skopje Agreement and the upcoming Kosovo elections); economic reform and restructuring in the region; co-operation in issues of common regional interest; recognition of other interests and a perspective of EU integration. Other Albanians agreed the time is not ripe for the final status issue. A Serb from Kosovo noted that Belgrade and Podgorica can now come to an agreement without Western mediation, whereas the differences between Belgrade and Pristina cannot yet be negotiated, with or without mediation. Conversely, Serbs from Kosovo and Belgrade alike preferred the continuation of the FRY status quo until the whole region joins the EU and thus changes the substance of the status issue. On the FRY issue, an Albanian from Skopje noted that for Yugoslavism neither a constituency (even among Serbs) nor a substance is available: To most people of the region the idea has a connotation of new hegemony.

A Serb participant from Kosovo pleaded for an economic approach to regional stability. A decade after opening the national questions of the region and five wars none of these problems has been solved. Thus, despite national frustration Serbs and Albanians ought to sideline their state-building ideas and take the only common interest of the region as a beginning for stability: economic co-operation. By approaching stability bottom-up, a Serb entity would be willing to integrate in Kosovar society as soon as Kosovo demonstrates a willingness to integrate in the new Yugoslavia. An Albanian took issue and described the argument of economics first and the condition for Serb integration in Kosovo as a contradiction. He agreed with the argument that this is not the moment to tackle the status issue, but rather, as he said, to implement 1244 by making a joint effort to democratise Kosovo. In the end,

however, regional stabilisation will not be possible without the completion of FRY dissolution.

An Albanian participant from Macedonia contrasted the language rights and rights of political representation of his people under the new Skopje Agreement in Macedonia to the demands of the far smaller Serb minority in Kosovo under the Interim Agreement. An Albanian from Kosovo underlined that the liberal system of minority more rights under the Interim Agreement, with Serbian becoming an official language in Kosovo. The above Albanian contrasted the multiethnic reality of Macedonian society to the mono-ethnicity of the state which so far failed to reflect societal reality in its concept. He contrasted the moderateness of Albanian positions in Macedonia compared to the radical positions of the Serbs in Kosovo as they accept the sovereignty and integrity of the state and are prepared to act within the framework of its institutions. Conversely, the Serbs in Kosovo fail to accept its integrity and refuse to act in the framework of its institutions. As the presence of major minorities makes democracy more difficult at least at the beginning mechanisms of consensual democracy are needed. In protest, a Serb from Kosovo noted that all amendments to the Interim Agreement suggested by the Serbs along the lines of consensual democracy had been rejected by UNMIK and the Albanians. Along the same lines a Serb from Belgrade promised the acceptance of Pristina as a negotiation partner by the FRY once truly democratic elections had taken place and the issues of refugee return and missing persons settled. Already now Belgrade supports the registration of voters and welcomes a democratic, multiethnic Kosovo. A Western participant along the lines of this comparison underlined that typically each nation in the region is a majority in one entity, but a minority in another. Full awareness of this situation might moderate demands for national rights and dilute the current perception of a zero-sum game.

Again the issue was raised if the perspective of EU integration is not too far off to be the driving force for developments in the region right now. The representative of an international organisation therefore advocated a European roadmap of more short-term doable goals for the region. The representative of another international organisation put forward the concept of subsidiarity in connection with the regional approach which has so far been limited mostly to economic issues: Many issues may be dealt with more appropriately and effectively on a bilateral basis as long as the negotiation process is transparent to the region with the regional approach being limited to "best practices" in such an issue. Additionally, both Serbs and Albanians reiterated the need for a US role next to the EU in this process, whereas a Kosovar Albanian noted as a positive exception that in the Macedonian crisis Russia had for the first time in the disintegration of the Yugoslav Federation failed to mingle in the process. Whether or not the peoples of the region are looking forward to regional institution building preceding to or in addition to the roadmap to EU accession remained an open question. At least one Kosovar Albanian suggested this might be an external priority not reflecting the wishes of the populace.

Whereas some Serb participants explicitly regretted the tragic events of the recent past and pleaded for a Serb-Albanian reconciliation process. One Serb from Belgrade admitted that it would be unfair to blame the Albanians for the current tense situation in Kosovo, which has nevertheless to be accepted as a reality of today. At the same time, they pointed to the long history of the conflict with roots in the Middle Ages and contrasted Serb-Albanian relations to the far less emotion-ridden issue of Serb-Montenegrin relations. The Western idea of a symbolic political gesture on the part of Belgrade, an outreach to the Kosovar Albanians, however, was rejected as unrealistic as the politicians in Belgrade will not be ready for a public apology for a long time to come. The attempt to enforce gestures of reconciliation now would only lead to new mutual incriminations.

The most remarkable outcome was the broad consensus that becoming a functioning state characterised by good governance for all its citizens cannot wait until an entity has achieved full independence. Nevertheless, the sequencing of the state's willingness to implement a minority regime and the minority's readiness to integrate and become stakeholders in a new society remains a classic deadlock.

Panel D: New States and New Minorities

Notwithstanding the debates on the status issues and the sequencing of negotiations, the question concerning the feasibility of human and minority rights protection prior to or irrespective of status arrangements remains valid. Before or after independence, the integration of minorities is a key challenge and responsibility for the new majority in any functioning state or state-like entity. Former Macedonian President Kiro Gligorov's saying "Why should I be a minority in your state, if you can be a minority in mine?" captures the zero-sum perception of minority policies typical of ethno-nationalism.

As Bruno Schoch stated in his introduction, the incongruence of nations and states is not a particularity of the Balkan region but rather a general rule in Europe. Whereas national self-determination and the nation as constituent power may be defined in terms of demos or ethnos, priority has to be given to the democratic definition, as an ethnic interpretation invites exclusion and ethno-nationalism. Stabilising a region of functioning constitutional states has priority in the process, as the relentless assertion of rights of national self-determination would result in ever-more fragile states striving for European alimentation rather than integration. Consequently, there is no alternative to ethnic co-existence and regional stability cannot be achieved by further state disintegration or the redrawing of borders. Conversely, the Helsinki principle of border inviolability has demonstrated positive results in the post-communist era.

In discussing the prospects of a Serb-Albanian political dialogue in Kosovo, the meetings between the international community, Kosovar Albanians and Bishop Artemije immediately after the Kosovo War was criticised by Serbs, as Artemije had never been a political representative of the Serb minority. Albanians, however,

maintained he had been the only halfway-organised alternative to Milosevic party, whereas even now Serb in Kosovo failed to create their own democratic representation in last year's municipal elections.

The statement of a Montenegrin participant concerning the historicity of Montenegrin independence going back at least one millennium and its suppression in Yugoslavia since 1918 ignited an exchange of views on the relevancy of historical arguments in current disputes of territory and sovereignty. Again the view was reiterated that the relevant argument is not whether or not Montenegro is a historic state, but first and foremost the concept and quality of the state. The Montenegrin participant concluded by arguing that Montenegro is the only successful multiethnic state in the region – without border disputes and with adequate minority protection and contrasts his state to the threat of a revival of the Yugoslav Federation. A Serb from Kosovo countered by asking what minority rights would be possible after, but not prior to an Montenegrin independence. (A Serb from Belgrade asked the same question for Kosovo.) An international representative asked whether standards for human and minority rights could be part of the joint competencies in a possible future association of whatever kind between Serbia and Montenegro. The reply from Podgorica listed the three areas of joint competencies envisaged in the platforms (foreign policy, military affairs as well as economic and monetary policies), without explicitly excluding additional competencies at a later stage.

Similarly, a Kosovar Albanian referred to Serb privileges and dominance in the past federal system and highlighted the minority rights of the Serbs in Kosovo nowadays such as the fact that the language of the 5% Serb minority has been made an official language (although even better conditions were envisaged in the Rambouillet Agreement). Other Kosovars consented to his statement and pointed to the parliamentary seats reserved for the Serb minority and by pointing to the fact that in Northern Mitrovica free movement is just as restricted for Albanians as it is for Serbs in the rest of Kosovo. Most Kosovar participants demanded a Serb declaration of intent to integration in Kosovar society rather than secede from it – without the condition phrased by several Serbs that in return Kosovo will have to integrate in a Yugoslav Federation as well as, in the end, integrate together in Europe. They also noted that minorities can and have been used by the homeland as an obstacle and a political instrument. A corresponding distrust of Kosovar intentions was obvious from another Kosovar Serb's reply: He rejected the Yugoslavism of the interior Kings, Tito and Milosevic as well as the current spiral of disintegration, self-isolation of nation-state building. He championed full participation in a Kosovar democratic process, conditional on the status quo of UNSC res. 1244, free movement, the return of refugees and the clarification of the fate of the missing persons. A German participant noted that making the readiness to integrate on the Serbs' part conditional on a favourable answer to the status question implied secession as an alternative option. However, identifying (as one Kosovar did) the Serbs as former oppressors rather than a current minority creates a similar deadlock. A Serb from Kosovo explicitly

rejected not only the idea of an independent Kosovo, but also the option of secession for Northern Kosovo as this would push the idea of an ethnically homogeneous and independent Kosovo to the detriment of the Serbs in other parts of the province.

The issue of the actual design of a minority regime was overshadowed by these fundamental debates. Western participants noted that in view of the variety of European models, the design should be left to the relevant state, without precluding monitoring by the international community or additional bilateral agreements on cross-border minorities. The territorialisation of minority regime was seen as the less advisable solution, although in some cases elements of territoriality are inevitable. Furthermore, by including smaller minorities too, the impression may be avoided that minorities equal political conflict and are a threat to the state.

Quite untypical, a Serb participant from Belgrade outlined the incompatibility of the Serb historic claim to Kosovo and the Albanian ethnic-demographic claim without weighting or judging the two claims. Going one step further, an Albanian from Macedonia demonstrated the mythical character and futility of any historical argument by pointing to the Ottoman occupation as the longest rule in Kosovo and to Prizren as the cradle of the modern Albanian nation.

A Serb from Belgrade confronted a basic assumption of the strategy paper by claiming the democratic process and the parliamentary elections in Kosovo would come too early: The state-like entity will thereafter act as a quasi-sovereign state, but can and will not be acceptable as an equal negotiating partner. In his opinion, in the end Kosovo will need substantial autonomy after a long process of reconciliation. In reply, an international representative underlined that concepts of regional ownership and state functionality remain meaningless as long as the international community maintains semi-colonial control in the form of a UN-protectorate.

All groups of participants agreed in principle that the granting of human and minority rights cannot and should not be made dependent on the status issue and its outcome. Any functioning state or state-like entity has the obligation to integrate its minorities.

4 The Balkan Forum

The following experts participated on a regular basis in the first round of consultations of the Balkan Forum in Berlin. In behalf of the Bertelsmann Foundation and the Center for Applied Policy Research, we would like to thank them and other experts, who participated on an *ad-hoc* basis, for their expertise and engagement. In the first round individual experts contributed a dozen reports on specific issues and aspects of the post-Milosevic negotiation process.⁷ The strategy paper is based on insights from these reports and the subsequent discussions in the Berlin sessions of the Balkan Forum.

4.1 Experts

Franz Lothar Altmann	<i>Head, Southeast Europe, German Institute for International Policy and Security (SWP), Berlin; Executive Member of the Board, German Association for East European Studies, Munich</i>
Florian Bieber	<i>Regional Representative, European Center for Minority Issues, Sarajevo</i>
Thomas Bremer	<i>Professor; Ecumenical Institute, University of Münster</i>
Carsten Giersch	<i>Assistant Professor; Department of Political Science and Public Administration, University of Rostock</i>
Frank Herterich	<i>Member of Policy Planning Staff, German Ministry of Foreign Affairs, Berlin</i>
Joseph Marko	<i>Associate Professor; Institute of Austrian, European and Comparative Public Law and Political Science, Faculty of Law, University of Graz</i>
Wim van Meurs	<i>Senior Researcher, Bertelsmann Group for Policy Research, Center for Applied Policy Research (CAP), Ludwig-Maximilians-University, Munich</i>
Vesna Rakic-Vodinelic	<i>Professor; Head, Experts' Group for Legal Reform, Montenegro</i>

⁷ In German, available for download at:
www.bertelsmann-stiftung.de/documents/ArbeitsgruppeBalkan2001.zip.

Fabian Schmidt	<i>Deutsche Welle, Cologne</i>
Joscha Schmierer	<i>Member of Policy Planning Staff, German Ministry of Foreign Affairs, Berlin</i>
Ulrich Schneckener	<i>Senior Researcher, Institute for Intercultural and International Studies, Bremen University</i>
Bruno Schoch	<i>Senior Researcher, Peace Research Institute Frankfurt (PRIF), Frankfurt</i>
Armin A. Steinkamm	<i>Professor; Director, Institute for International Politics, Security Policy, Military Law and International Law, Bundeswehr University, Munich</i>
Stefan Troebst	<i>Professor of East European Cultural Studies at the University of Leipzig and Deputy Director of the Leipzig Center for History and Culture of East Central Europe</i>
Jelena Volic-Hellbusch	<i>Head, Project Office FRY, Boell Foundation, Belgrade</i>
Stefani Weiss	<i>Program Director, Politics Division, Bertelsmann Foundation, Guetersloh</i>
Andreas Wittkosky	<i>Advisor to the Deputy Head, EU Pillar (Economic Reconstruction), United Nations Interim Administration Mission in Kosovo (UNMIK), Pristina</i>

4.2 Reports⁸

Title (English)	Title (German)	Author
Serb Nationalism after the Democratic Takeover in Yugoslavia	Serbischer Nationalismus nach dem Demokratischen Machtwechsel in Jugoslawien	Florian Bieber
A Framework for Negotiations and the Mediation Approach for the Future of Kosovo	Verhandlungsrahmen und Vermittlungsansatz für die Zukunft des Kosovo	Carsten Giersch
Yugoslavia's Constitutional "Chaos"	Das jugoslawische "Verfassungschaos"	Joseph Marko
(Counter-) Elite Grouping in Montenegro	(Gegen-)Eliten in Montenegro	Vesna Rakic-Vodinelic
Secession - An Option for Kosovo and Montenegro?	Sezession als Option für Montenegro und Kosovo?	Ulrich Schneckener
Reflections on an Internal Restructuring of the FRY	Überlegungen zur binnenstaatlichen Reorganisation der BRJ	Bruno Schoch
The Role of KFOR and UNMIK	Die Rolle von KFOR und UNMIK	Armin Steinkamm
Greater Kosovo?	Gross-Kosovo?	Stefan Troebst
Sandsak between Serbia and Montenegro	Der Sandžak zwischen Serbien und Montenegro	Stefan Troebst
Serbia and Vojvodina	Serbien und Vojvodina	Jelena Volic-Hellbusch

⁸ These reports - with the sole exception of Vesna Rakic-Vodinelic's - are available in German only. See: www.cap.uni-muenchen.de/mitarbeiter/meurs.html and www.bertelsmann-stiftung.de/project.cfm?lan=de&nid=125&aid=1443.

5 Strategy Paper - *Negotiating the Balkans*

NEGOTIATING THE BALKANS

A Regional Approach to a Negotiated Arrangement for the Balkans on the Way to Europe

post-conference update – Oct. 19, 2001

The following concept for a sustainable arrangement for the Balkans may be characterised as process-oriented, regional as well as non-partisan, but driven by basic principles. The normative element concerns the rules of the negotiation process: A partisan stance or the imposition of a final solution to the open questions would run counter to the regional ownership of the process. In this concept the EU would be the international key actor to impose framework conditions for both the negotiation process and resulting agreements as well as to provide mediation and incentives for constructive and responsible participation in the process. Stabilising a region of *functioning* constitutional states has priority in the process, as the relentless assertion of rights of national self-determination would result in ever-more fragile states striving for European alimention rather than integration. Last, but not least, the issues are linked in political praxis, even if not in terms of international or constitutional law. Therefore, a comprehensive regional process towards a final arrangement should take precedence over issue-by-issue unilateral decisions or separate bilateral agreements.

5.1 Premises

Both the international community and the political leaders of the region are obliged to use the current window of opportunity to negotiate a sustainable arrangement for the Balkans. The Balkan Forum's recommendations for this regional negotiation process are based on six premises:

1. The conflicts of the past decade in the Balkan region have their roots to a large extent in the nature of the disintegration process of the Socialist Federal Republic of Yugoslavia (SFRY), which has been neither controlled nor consolidated. Thus, arrangements dealing with open issues of state building should have stabilising effects for the region.
2. Since the end of the Kosovo War, several events and developments have created an unprecedented window of opportunity for negotiating long-term stability for the Balkan region as well as for progress on integration in

Euro-Atlantic structures. This window of opportunity relates to the decision taken at the Helsinki European Council in December 1999 to open accession negotiations with Romania and Bulgaria; the solemn promise of an EU integration perspective for the countries of the region in the form of a Stabilisation and Association Process; and, last but not least, the change of regime in Zagreb as well as in Belgrade one year later.

3. In the circumstances of the incongruity of states and ethnic nations on the Balkans, an absolute priority for national self-determination is bound to end in a downward spiral of state fragmentation and inter-ethnic violence. Thus, any future-oriented strategy in a framework of regional stabilisation and European integration will have to consider other, non-ethnic motives and interests.
4. The numerous unresolved issues of the region *are* linked in praxis, the intricacies and ambiguities of international or constitutional law notwithstanding. The linkages depend on political activists' ability to make a credible case for such implications and to mobilise a constituency on this basis. Thus, these linkages are constructed rather than essential, but nevertheless constitute powerful factors of unpredictability and obstruction in regional politics.
5. Irrespective of its final status, Kosovo has to be turned into a *functioning* (i.e., responsible and self-governing) state-like entity in the short term, to allow for a process of market-reform and democratisation to take shape. Thus, UNMIK would gradually limit its management to key decisions and supervision, while reducing the *de facto* protectorate status of Kosovo in line with UNSC Res. 1244. Provincial elections (as fixed for November 17, 2001) and a corresponding Constitutional Framework for Provisional Self-Government (as proclaimed on Mai 15, 2001) are prerequisites for a process towards Kosovar self-government.
6. Ultimately, the status of Kosovo and Montenegro belongs to the agenda of the regional negotiation process. Initiating a negotiation process in the short term and creating a perspective for a final arrangement does not conflict with the international consensus on longer, concise interim arrangements. At the same time, the option of independence is not incompatible with international policy if current borders are respected (i.e. upgraded to state borders, but not changed geographically) and if independence is the result of a fair negotiation process.

5.2 Negotiating a Regional Arrangement

The lesson of recent Balkan history is that neither an unrelenting implementation of the principle of national self-determination and the ideal of ethnically homogeneous nation-states, nor a dogmatic defence of the status quo of states offers a long-term

perspective for regional stability. As long as conflict parties strive uncompromisingly for their preferred solution and insist on a corresponding *finalité* to the nation and state building processes, regional stability will remain a chimera. The plurality of conflicting and incompatible claims – both current and potential – in the region defies any “solution” in a strict sense. Protracted processes of disintegration would be bound to create ever-new claims and revitalise conflict potentials. The only real option is a pragmatic combination of responsive long-term diplomacy and a concise negotiation process. Regional stability as a prerequisite for the realisation of the long-term perspective of integration in Euro-Atlantic institutions has to be based on an “arrangement” rather than a “solution”. Any “arrangement” implies compromises and suboptimal results for all parties involved and requires *a priori* the respect for the legitimacy of other claims and interests. Thus, the involvement of the major democratic political parties in each state and state-like entity in the negotiations is key to the sustainability of the arrangement, as they implicitly accept responsibility and ownership of the resulting bi- and multilateral agreements.

In a dual sense, a regional approach is the only consistent strategy: The current consensus in the region concerning the priority objective of integration in Euro-Atlantic structures, first and foremost the European Union, implies acceptance of regionality. The regional approach is at the heart of the Stability Pact and informs the EU's Stabilisation and Association Process too. At the same time, the multitude of complex links between the controversial issues of nation and state building – both current and potential – in the region defies any unilateral or bilateral solutions. Thus, in order to prevent the destabilisation of the region by the emergence of ever-new issues and arcane package deals or by irresponsible and uncommitted elites, a comprehensive (both in terms of issues and in terms of political actors involved), regional negotiation process should be initiated.

5.3 Domestic Transparency and Responsibility

Any meaningful and effective negotiation process requires equal participation and mandated representatives of all states involved. Depending on the agenda-setting in the pre-negotiation phase, all former republics of the SFRY (including Slovenia) ought to participate or, conversely, Albania should be included from a regional perspective.

In the case of the Federal Republic of Yugoslavia, the basic requirement of equal representation poses a threefold problem:

1. The representatives of Kosovo and Montenegro as non-independent entities would have to accept both the federal and the Serbian governments as negotiating partners. Non-acceptance of either the Yugoslav or the Serbian representation would invalidate the negotiation process. This can only be achieved if all parties publicly confirm that this acceptance for the sake of negotiations does not prejudice any decision on the status issues.

2. The negotiation process also depends on the provincial elections in Kosovo, scheduled for November 17, 2001, and the subsequent installation of a democratic parliament and a provincial government as well as on the proclamation of an Interim Statute defining the competencies of these Kosovar provincial authorities.
3. The Yugoslav and Serbian authorities in Belgrade would have to accept their counterparts in Podgorica and Pristina as equal negotiating parties, but not as independent entities. This can only be achieved if both sides publicly confirm that this acceptance for the sake of negotiations does not prejudice any decision on the unresolved status issues. Consequently, the negotiation process precludes unilateral steps pertaining to the status of Kosovo and Montenegro.

These issues cannot be resolved satisfactorily by a legal approach, as the constitutions in/of the FRY are contradictory and disputed. The Federal Republic of Yugoslavia has lost much of its authority in current state praxis, albeit not its prerogatives in terms of constitutional rights and international status. Therefore, without prejudicing the outcome of negotiations, the international community has a special commitment towards the FRY in mediating between the parties. Overall, the issue of representations requires political (good)will rather than legal arguments.

Having democratically elected governments of all states and state-like entities represented at the negotiation table as equal partners may not suffice for a robust and durable arrangement. (Radical) changes of government within the window of opportunity and the general exclusion of major opposition parties or ethnic-minority parties concerned would invalidate the results of the negotiations. Some of the issues on the negotiation table and subsequent arrangements are bound to have the status of a referendum issue or constitutional amendment. Thus, preferably, each state or state-like entity would be under the obligation to include all relevant domestic parties in the delegation (with the proviso that each party explicitly rejects violence as a policy instrument, accepts the other delegations as equal negotiating counterparts, and pledges to respect their legitimate interests as a basis for negotiations). One option would be to choose the presidium of the respective parliaments as the appropriate broad democratic basis for a delegation to the negotiations.

Pre-negotiations should clarify the agenda, solve the issue of representations and determine the procedures. Procrastination in the pre-negotiation phase would have to be curbed by the conditionality of international assistance and the political leverage of EU and US to provide positive and negative incentives. Key precondition for opening the actual negotiations is the signing of a formal declaration including the

authorisation of the international mediators and a catalogue of binding principles along the following lines: All negotiating parties must

1. ... renounce violence as a instrument of solving political conflicts and pledge to isolate those propagating and using violence to promote their political views.
2. ... refrain from unilateral steps pertaining to the status of Kosovo and Montenegro.
3. ... recognise and respect the (conflicting) interests and positions of the other negotiating parties as equal, legitimate and a basis for negotiations.
4. ... be committed to full co-operation with the International War Crimes Tribunal in The Hague.
5. ... respect the norms of the Helsinki Process and the basic criteria of the Stability Pact and the Stabilisation and Association Process: human and minority rights, inviolability of borders (both international borders and republican/provincial borders within the FRY), reforms towards pluralist democracy and market economy.

The normative preconditions listed above are based on the following consideration: The sum of the preconditions makes for negotiations on the basis of the regional status quo rather than inviting arcane package deals and the assertion of specific interests in an inextricable process with all options open.

The interest of all parties is in a robust and transparent negotiation process as regional stability contributes to economic development and regional trade co-operation. It also contributes to a strengthening of functioning governments contending with militant nationalists or belligerent rebels.

5.3.1 The Role of the International Community

Regional ownership of the negotiation process does not argue against a key role for the international community. International interference in processes of nation and state building is not an exception, but the rule and, in contrast to 19th and 20th century precedents, the international community should now act as guarantor of regional stability and accepted principles rather than great power interests. The concept of an indigenous, regional negotiation process determines and limits the role of the international community as an external actor. Without forcing any final status solutions in the open-ended negotiation process, the international mediators nevertheless play a key role in setting the framework conditions for the negotiations and providing incentives for a constructive dialogue.

The increased profile of the EU as guarantor of security and stability in the Balkans and the perspective of a long-term integration process preordain the European Union's leading role in the negotiations. The assistance and advantages offered by the Stability Pact and, most of all, the Stabilisation and Association Process towards

EU integration constitute key incentives for constructive negotiations. Therefore, the envisioned negotiation process for the region should be institutionally affiliated with the EU as a norm-setting organisation. Democratic representatives, moreover, should have ownership of the regional negotiation process. With the EU as operative lead-organisation in the mediation process, the UN and the International Contact Group with its wider membership would be in the role of guarantors of the negotiation process as international acceptance of the resulting arrangements requires the involvement of the USA, the Russian Federation, the EU and the key European states. A high-profiled negotiator or a small negotiation team of international repute with experience and prestige in the region should be authorised to lead the actual mediation. A mandate by the UNSC, although not an absolute prerequisite, would substantially enhance the authority of the international mediators and the process as a whole. A *regional* negotiation process does not imply *multilateral* negotiations on each issue: Rather, each bilateral dialogue on an issue with implications for the whole region should be transparent to all parties and whenever appropriate, parallel bilateral negotiations should be cross-linked. Transparency is guaranteed by the broad parliamentary basis of each delegation as well as by the international authorisation of negotiated agreements. Confidence-building measures and symbolic gestures at an early stage of may enhance trust in the negotiation process.

Apart from setting the preconditions and framework for negotiations and providing mediation, the international community also contributes incentives and disincentives to bolster the authority of the mediators and to encourage constructive negotiations. The key challenge is to apply sanctions and incentives for the sake of the negotiation process, not for a partisan position concerning the result of negotiations. This requires a consensus of the international community in advance and close co-ordination during the process.

The sanctions and (dis)incentives available to the international community should be applied in consensus and in conformity with transparent guidelines. Overall, positive incentives in terms of substantial and reliable international assistance under the Stability Pact, IFI credits and progress on the SAP trajectory towards EU membership should be ranked higher than negative sanctions.

5.3.2 Issues Open to Negotiation

The catalogue of negotiable issues consists of three categories: (1) unresolved issues related to the Yugoslav disintegration process of the past ten years; (2) issues directly and inseparable linked to the status questions; and (3) prospective non-status issues related to the processes of regional integration and integration in Euro-Atlantic structures. Evidently, the distinction between status and non-status issues is subjective and may shift during the negotiation process (e.g., confidence-building measures might induce the relevant parties to acknowledge that negotiations/agreements on specific issues do no prejudice status issues).

Consequently, other issues belong to the internal affairs (4) of the states/entities involved, but remain open to international supervision or dialogue.

The international community would be party to the various bilateral and multilateral agreements, acting as guarantor and monitor, both in international and internal issues. The negotiation process were to produce basic treaties: internal agreements between majority and minorities of the states as well as external agreements between each state or state-like entity and its neighbours. Minority legislation (and its implementation) would be scrutinised for its adherence to European standards by benchmarking rather than prescription by the international community.

Not to act would leave the field wide open for strategies of violence as well as for secret negotiations and questionable deals with a high potential for destabilisation. Moreover, next to all regional actors have come to accept that the status quo of state structures and sovereignty in the FRY is *de facto* dysfunctional, if not *de jure* defunct. Therefore, the preferred set-up and outcome of negotiations rather than the need for a negotiated rearrangement as such is the matter of dispute.

5.4 (1) Issues of Disintegration

The uncontrolled and violent disintegration of the Yugoslav Federation has left a legacy of conflict potentials:

The most basic issue is the legal succession of states with all resulting obligations and rights. This may include access to harbours, natural resources or religious or historic sites. It also concerns the serving international debts and the sharing out of state property and other assets.

One of the most relevant unresolved issues in this category with a high conflict potential is the absence of full border demarcation between the former Yugoslav republics and provinces. Typically, on the premise of the inviolability of borders, border demarcation agreements do not impinge on the status questions as the future status of the respective borders may change irrespective of its demarcation. Demarcation contributes to the elimination of grey zones and the consolidation of stable relations.

In a process of state restructuring, international security guarantees as accompanying measures contribute to the stabilisation of the process. Guarantees would concern not only borders and inter-state conflict, but also other armed threats to the legal order in recognised states and entities. Thus, international security guarantees would release budgetary and human resources absorbed for national and regional reform priorities by reducing security threats.

The return of refugees is a key issue for which case-by-case pragmatic solutions have to be found. Bilateral agreements to support a process of reintegration or a concerted policy of resettlement may both be monitored by neighbouring home-states and/or international organisations such as the OSCE. Determining the fate or

whereabouts of missing persons also help to come to terms with the past on both sides and lay the foundations for a future-oriented approach.

New borders require arrangements for access to locations of economic or historic relevance, be it religious or historic sites, harbours or natural resources. The creation of new states should not be allowed to hamper economic development by annulling long-term basic parameters of national economies such as access to a harbour or certain natural resources, all the more so as regional co-operation is a shared objective. Guaranteed access to sites of historic or religious importance would alleviate the consequences of state building from a perspective of nation building.

5.5 (2) Status Issues

Acceptance of the fact that the Yugoslav Federation exists as a state in terms of international law (albeit to a much more limited extent as a functioning state) implies that the issues of the final status of Kosovo and Montenegro are interdependent. A unilateral Montenegrin declaration of independence would mean the end of the Yugoslav Federation and turn the question of the future of Kosovo into a Serbian-Kosovar issue.

The final status of Montenegro now becomes a pivotal issue: In the April 2001 elections pro-independence forces won by a small margin, too small a margin for a declaration of independence to become an domestic consensus. Unilateral independence is bound to create regional and internal conflict and instability. Therefore, serious negotiations should be opened on the basis of the two platforms. From a Montenegrin perspective, a federation of two states as unequal as Montenegro and Serbia (without Kosovo) in population and geographic size would be hard to imagine and even harder to implement in a meaningful way.

In the case of Kosovo's final status the positions of Belgrade and Pristina are much more incompatible than in the case of Montenegro. A return to the status quo ante (i.e. 1974) is as unacceptable to any Kosovar leader as full independence would be for Belgrade, while the international community insists on the inviolability of borders and thus rejects exchanges of territories (e.g. Preshevo Valley for the Mitrovica region). Nevertheless, the Montenegrin case might offer a model as the two platforms representing the starting positions and a commitment by each side for negotiations contribute to a constructive and in-depth dialogue. A dialogue on functional divisions of competencies and areas of co-operation might create new options for an arrangement on the issue of sovereignty.

From the perspective of the current status quo, negotiations for a new arrangement for Montenegro and/or Kosovo might realistically probe two different paths. One option would be negotiated separation followed by a negotiated agreement on new forms of delegated sovereignty in a (con)federal or loose framework. Alternatively, a new framework might be agreed upon before the admittedly dysfunctional FRY is dissolved.

In each case the new framework might be considered “work in progress:” The central level of the tripartite framework might start as a consensus of minimal (representative) functions and competencies - not based on the precedent of the FRY. Depending on the interests and consensus of the three sovereign partners, the framework might gradually gain in substance and sustainability. A tripartite framework would be more balanced in terms of relative weights and would be readily accepted by the international community to prevent a new destabilising *va-banque* of nation and state building. Such a “three plus zero” federation might be a robust interim arrangement, allowing for functional states and regional co-operation without prejudicing any option for the final status. Such an arrangement would leave open the options of both a velvet divorce - full independence after a “probation period” - and a gradual, functional strengthening of the shared institutions by consent.

5.6 (3) Issues of Integration

The regional consensus prioritising integration in Euro-Atlantic structures should help to convert issues of SFRY disintegration into issues of regional and European integration. A key issue for the Balkans is enhancing co-operation along functional lines in policy areas relevant for regional stabilisation, the transformation process and the fulfilment of EU and NATO criteria.

Stimulating regional trade flows and economic co-operation requires installation of free-trade regimes, harmonisation of legislation and co-ordination among the relevant institutions of states and state-like entities.

Regional co-operation also requires transparent and uniform visa and border regimes. Conversely, co-operation in Justice and Home Affairs with the corresponding harmonisation of procedures and legislation would contribute to EU pre-accession. At the same time, the fight against corruption and organised crime is an absolute priority in view of the socio-economic disparities and conflict potentials in the region.

For a region of at least five small to medium-size states, co-operation in foreign representation as well as foreign-policy co-ordination in relevant international organisations would contribute to an effective use of resources and maximise regional influence on international policy-making. The same applies to regional co-operation in military affairs ranging from army procurement to joint initiatives for peacekeeping or crisis management. Foreign policy co-ordination among the states of the region would simulate a future EU membership, as regional co-operation would be the only option for a meaningful say in policy making in a future European Union with 32 or more members.

5.7 (4) Internal Affairs

By setting the rules and limits of the negotiations, the international community essentially fixes the line between domestic and international/regional issues. That is to say, legal and other arrangements for ethnic and religious minorities or regions

within the borders of each of the seven states and entities of the Western Balkans are within the competence of the democratic regimes of these states and entities and have to be solved within those borders. Thus, the procedures of minority protection, citizenship policies, regional decentralisation, language rights or interethnic dialogue are left to the elected parliaments and governments: The quality and implementation of these commitments, however, are subject to international monitoring and scrutiny (e.g. in the framework of the SAP).

This distinction between negotiable and internal affairs, evidently, does not preclude agreements for cross-border co-operation among co-nationals or a special relation of a minority to a neighbouring homeland. Such arrangements are appropriate, but not obligatory for typical cases of a mismatch of nation and state: Serbs and Muslims in Sandzak, Albanians in Northern Macedonia, Serbs in the Republika Srpska, Hungarians in the Vojvodina, Albanians in Preshevo Valley, etc.

Similarly, the *Vergangenheitsbewältigung* – coming to terms with the national and regional past as a process of social catharsis rather than criminal justice – clearly belongs to the national prerogatives. Again, however, a regional dialogue might contribute substantially to the process.

5.7.1 Negotiating the Balkans

As the objective of stability on the Balkans cannot be achieved by the selective application of either the principle of national self-determination or the principle of state sovereignty, regional stability has to be declared the key principle. A regional approach for stabilisation of the Balkans forbids a choice between Albanians and Serbs as stabilising power and (thereby) preferred partner of the international community. Only *functioning* states (in terms of market economy and good governance) can counter nationalist conflicts and erode the trend of state fragmentation along ethnic lines. New dynamic arrangements for competencies and sovereignty would replace the FRY structures.

After a decade of regional conflict and with the long strenuous process towards EU membership ahead, neither regional frameworks alone nor the European framework alone can stabilise the Balkans. The only viable option to achieve progress in building functioning state structures is a robust combination of regional and European integration.

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Outlook

The Balkan Forum will continue its deliberations on the basis of the strategy paper and the results of the round-table conference. The focus for the upcoming round of meetings (planned for December 2001-March 2002) will be on the European framework of a negotiation process, concrete proposals for negotiable issues and pre-negotiations.

The organisers welcome your comments and suggestions concerning the strategy paper and the conference report. Feel free to send your remarks to either of us. If you wish to receive information about the Balkan Forum's activities and reports on a regular basis, please ask for registration in our mailing list.

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