

crime which are the result of ordinary human stupidity, weaknesses, imprudence and similar, should not be disregarded either.²⁰²

1.2. Short-term measures for Kosovo

All short term measures for Kosovo have to address (1.) the ongoing violence between Albanians and Serbs, (2.) the increase of crimes, (3.) the weakness of the legal system, and (4.) the obstacles to economic development. Positive initiatives should be supported (5.).

1.2.1. Reduction of violence

With regard to the violent past and the crimes committed by parts of Serbian troops before and during the bombing of the NATO, it is quite understandable that nobody in Kosovo is ready for reconciliation and forgiveness. The present excesses of "revenge" from the Albanians are also not acceptable and in some sense even worse, because they take place under conditions of normalisation which were set up by UNMIK more or less in favour of the Albanian population. Therefore, every act of violence, whoever is responsible for it, has to be proscribed and outlawed. There is no reason and no justification for any brute force of persons against persons or against objects. Violence by its nature has to be perceived as a kind of ordinary crime. In the meantime minorities, at least the Serbs and the Roma, must be better protected. The refugees inside and outside of Kosovo should have special representatives in the governing bodies of UNMIK in order to pursue their particular interests.

1.2.2. Prevention and prosecution of crimes

The increase of crimes has to do on the one hand with a lack of public authority accepted by the people, and on the other hand with the insufficient supply of basic goods (i.e. food, housing, clothing etc.). The most part of the population in Kosovo live in a quasi-anarchic situation. Under these circumstances the flourishing of criminal energies is not a miracle. UNMIK tries to repress crimes by increasing the deployment of police forces and by strengthening the judiciary. But this is only one side of the coin. These activities must be accompanied by measures of social aid, financial assistance, and an overall betterment of the living conditions.

²⁰² Fehim Rexhepi Kosovo Seized by Lawlessness and Crime, AIM Pristina, 19 October, 1999

1.2.3. Improvement of the legal system

Despite the efforts made by UNMIK to establish the rule of law the legal system in Kosovo needs a lot of improvement. The uncertainty, as to whether old Yugoslav law or a new regulation of UNMIK has to be applied in a special case, creates many misunderstandings and disputes not only of ordinary people but also among stakeholders. The promulgation procedure of UNMIK regulations must be revised. Every regulation should give reasons for its enactment and has to be published in all the languages spoken in the country. Conflicts of laws should be decided by an independent and impartial law commission in a short period of time. Concerning the judiciary the appointments of judges must fulfil the demands of a multi-ethnic state.

As one most important improvement we would consider the installation of an Ombudsman office run by the international community. (See Annex 6)

1.2.4. Promotion of economic development

The most important preconditions for economic development are security and stability. Therefore, from this perspective the establishment of the rule of law and due process is more urgent than the democratisation of the government. It includes the safeguards for private property, free movement for people, goods and services throughout the country, and some incentives or privileged conditions for labour and production attracting foreign capital. The existing obstacles, in particular the damages of the infrastructure as a heritage of the war (mines, destroyed streets, airports and bridges etc.) have to be removed and repaired as soon as possible.

1.2.5. Fund of Reconstruction

The international community should establish a Reconstruction Fund which should provide

- incentives for local activities to set up democratic structures with legitimacy with regard to all persons, having a legitimate claim to live in the respective municipality;
- support for initiatives, which can realistically promote the development of the civil society

1.3. Short-term measures for the FRY

The air strikes of NATO, a de facto war against Yugoslav people, destroyed a lot of public utilities (energy supply, highways, bridges, railroads, airports etc.). With regard to the approaching winter there is

a strong need for (1.) a lifting of the sanctions against the FRY and (2.) a support for the suffering people.

1.3.1 Lifting of the sanctions

The sanctions against Yugoslavia, in particular the embargo of petrol and gas, have been imposed by the international community in order to force the government of Milosevic to stop his policy of ethnic cleansing in Kosovo. This reason does not exist anymore. The FRY may not be treated as an aggressor as long as Milosevic remains in office. The link between the sanctions and the removal of Milosevic could be regarded as a breach of international law, especially of Chapter VII of the UN Charter which is supposed at the same time to be the legal basis of the international military and civil presence in Kosovo.

1.3.2. Support for the people

The provision of basic needs for the people in the FRY is nearly so poor and bad as in Kosovo itself. Thus, besides all political reasons, the international community bears a co-responsibility for the lack of supply and has to organise humanitarian aid for the whole territory of the FRY as soon as possible in order to avoid a real disaster in the upcoming winter. The humanitarian measures should comprise all consumer goods and services of daily life, starting with food, shelter and clothing up to health care, social aid and reconstruction of damaged homes.

II. MEDIUM-TERM ACTIVITIES

II.1. General remarks

The most questionable impediment for a real progress in the region of South Eastern Europe set up by the international community is the so called policy of „conditionality“. In an effort to consolidate peace and stability in the region and to contribute to its economic renewal, namely the EU intends to develop bilateral relations with the countries of the region within a framework which promotes democracy, the rule of law, higher standards of human and minority rights, transformation towards market economies and greater cooperation between those countries. In this context, particular importance is attached to the principles of conditionality which shall govern the development of the Union's relations, in accordance with the conclusions of the General Affairs Council of October 1995, February and May 1996, the guiding principles of the Civilian Consolidation Plan agreed in Paris in

November 1996 and the Conclusions of the London Peace Implementation Conference of December 1996. In this context the Commission presented a strategy paper entitled "The application of conditionality to the development of relations between the EU and the countries concerned by the regional approach", which was welcomed by the General Affairs Council on 24 February 1997.

On this basis, the EU has agreed to establish, in the framework of the regional approach, political and economic conditions as the basis for a coherent and transparent policy towards the development of bilateral relations in the field of trade, of financial assistance and economic cooperation as well as of contractual relations, allowing for the necessary degree of flexibility. The EU strategy should serve as an incentive, and not an obstacle, to the countries concerned to fulfil these conditions. The concept of conditionality covers all countries in South Eastern Europe without Association Agreement (i.e. Bosnia and Herzegovina, Croatia, FRY, FYROM and Albania). While the exact level of relations with each of the countries varies, certain general conditions apply to all of them. In addition, specific conditions shall apply to certain countries, e.g. those relating to obligations arising under the Peace Agreements.

In this context, trade preferences, the extension of financial assistance and economic cooperation as well as the establishment of contractual relations are subject to different degrees of conditionality (graduated approach). The assessment of these countries' compliance with the conditions of the regional approach, i.e. the readiness of the beneficiary country to engage in cross-border cooperation and to extend where appropriate similar advantages to other countries of the region, shall take place at all stages of the development of relations. None of the countries shall be held responsible for a lack of reciprocal readiness of its potential regional partners.

The renewal of autonomous trade preferences is linked to the respect for fundamental principles of democracy and human rights and to the readiness of the countries concerned to allow the development of economic relations between themselves. Assistance in support of democracy could be considered subject to evidence of a country's credible commitment to democratic reforms and progress in compliance with the generally recognised standards of human and minority rights. Compliance includes an undertaking to make the Federation/Croatia as well as the RS/FRY agreements compatible with the General Framework Agreement for Peace (GFAP), under the guidance of OHR. It would also require respect for human and minority rights and the offer of real opportunities to displaced persons (including so called "internal migrants") and refugees to return to their place of origin. Moreover, the country concerned should have

undertaken a credible commitment to engage in economic reforms, significant steps towards cooperation with its neighbours and the establishment of open relations, including the free movement of people and goods. In the case of FRY, general assistance through programmes of the EU requires a credible offer of a real dialogue on the status of Kosovo.

The application of conditionality to contractual relations should be seen as an evolutionary process, the start of the negotiations requiring a lower level of compliance than the conclusion of the agreements. At each stage, including after the conclusion of agreements, the situation should be monitored and, in accordance with the relevant articles of the agreement, its application could be suspended in case of serious non-compliance. To permit the beginning of negotiations, the following general conditions shall apply to all countries concerned:

- credible offer to and a visible implementation of real opportunities for displaced persons (including so called "internal migrants") and refugees to return to their places of origin, and absence of harassment initiated or tolerated by public authorities;
- readmission of nationals of the States;
- compliance of the countries which are signatories of GFAP with the obligations under the peace agreements, including those related to cooperation with the International Tribunal in bringing war criminals to justice;
- credible commitment to engage in democratic reforms and to comply with the generally recognised standards of human and minority rights;
- holding of free and fair elections at reasonable intervals on the basis of universal and equal suffrage of adult citizens by secret ballot, and full and proper implementation of the results of these elections;
- absence of generally discriminatory treatment and harassment of minorities by public authorities;
- absence of discriminatory treatment and harassment of independent media;
- implementation of first steps of economic reform (privatisation program, abolition of certain price controls);
- proven readiness to enter into good neighbourly and cooperative relations with its neighbours.

In addition to the foregoing general conditions, the following specific conditions shall be applied in the case of the Federal Republic of Yugoslavia:

- existence of a real dialogue with the Kosovo Albanians on the status of the Kosovo within the borders of the FRY;
- effective granting of a large degree of autonomy to the Kosovo. The definition of what comprises "a large degree of autonomy for the Kosovo within the borders of the FRY" should be decided by mutual agreement between all the political forces in the FRY including of course Kosovo. The Parties should aim for a fair procedure and a fair legal framework going beyond the respect of minority rights.

During the negotiations, compliance shall be monitored continuously and progress on certain aspects shall depend on declared readiness to corresponding regional cooperation. In addition to the compliance with the above mentioned conditions, the conclusion of cooperation agreements requires, where applicable, substantial progress in the achievement of the objectives of these conditions as well as substantial results in the field of political and economic reforms and a credible commitment of the government concerned to continue on this path. Proven readiness to cooperate and entertain open, good neighbourly relations with the countries in the region shall be required.

There is no doubt about the legitimacy of this concept of "conditionality" and the reasonableness of the criteria which have to be met as a precondition for any economic cooperation and financial assistance by the European Union. But with the NATO air strikes against the FRY this policy of the EU became more and more counterproductive. It isolated the FRY from the rest of the Balkan states and created a situation for the Serbs to feel a discriminated, disadvantaged and even threatened people. Furthermore, with the prosecution and accusation of Milosevic before the International Court of Justice, his government was even not any longer an acceptable partner for negotiations with the international community. Consequently, as far as the FRY is concerned, the concept of "conditionality" culminates now in only one precondition: the withdrawal or removal of Milosevic as the key for every further progress in the international relations to the FRY. Due to the bombings there is also no hope for a fundamental change of the political system in the FRY in the next future, because Milosevic is now able to perform himself in the eyes of his people as a victim of persecution organised by the international community. Thus, under these circumstances, the policy of conditionality finished up a blind alley.

II.2. Medium-term measures for Kosovo

In a time frame of the next six to nine month actions should be taken (1.) to constitute an adequate and workable legal basis for the presence of UNMIK in Kosovo according to international law, (2.) to implement the "Ahtisaari-Agreement" in full meaning of its content, (3.) to improve and rationalise the existing UNMIK activities, (4.) to build "bottom-up" structures of indigenous administration as a first step to democratisation in Kosovo, and (5.) to facilitate the coexistence and merge of the different ethnic groups by a kind of "federalisation" or "cantonisation" of Kosovo for a limited period of transition.

II.2.1. Legalisation of UNMIK

As above demonstrated (cf. part 2, II.4. to II.7.) the civil presence of UNMIK in Kosovo, the only existing government for the time being and in the foreseeable future, can not be based on Chapter VII of the UN Charter as it was assumed in the respective international documents. Thus, there is a lack of legitimacy which affects also the creation of a new constitutional status of Kosovo within the FRY. If the present regime of UNMIK can be described as a "de facto trusteeship" of the United Nations, one must call upon the Security Council to amend its resolution 1244 of June 10, 1999, in order to establish legally an "international trusteeship system" in terms of Chapter XII of the UN Charter with the SC as the "trusteeship council". This decision should be taken as soon as possible, because any serious doubt about the legitimacy of UNMIK could endanger the whole mission.

II.2.2. Full implementation of the "Ahtisaari-Agreement"

The "Ahtisaari-Agreement" of June 3, 1999, concluded by the Representative of the Presidency of the European Union, President Martti Ahtisaari (Finland) and the Special Representative of the Russian Federation, Viktor Chernomyrdin, on the one hand and the government of the Federal Republic of Yugoslavia on the other hand (cf. part 2, I.I.2.1) is of very greatest importance for the entire UN mission in Kosovo. It expresses the necessary consent of the government of the FRY to the deployment of Kfor troops and UNMIK personnel in the territory of Kosovo. But as a document of international law containing mutual promises it commits also the other side (EU, UN) to carry out the agreed obligations. Looking at the crucial points of the document no effective action has been taken yet by the EU, UN or UNMIK to implement them. For example: No. 5 of the Agreement provides for an "international civil presence (i.e. UNMIK) *under which the people of Kosovo can enjoy substantial autonomy* within the

Federal Republic of Yugoslavia". For this purpose UNMIK is obliged to establish and oversee *"the development of provisional democratic self-governing institutions"*. In No. 8 both sides covenanted to initiate *"a political process towards the establishment of an interim political framework agreement providing for substantial self-government for Kosovo"*. None of these stipulations has been put into effect up to now. Not even a serious attempt was made to define what "substantial autonomy" for Kosovo means. There is an urgent need at least for a procedure leading to a clear concept for the agreed future status of Kosovo. According to the Agreement this procedure has to provide for a substantial contribution or participation of the FRY government.

II.2.3. Rationalisation of UNMIK activities.

The UNMIK system is supposed not only to comply with the principles of rule of law and due process, but also to serve and to strengthen them. Although there is an attitude of formal legality among the rulers, they are not accountable to the people governed by them and their actions are not subject to judicial review. Apart from the Security Council and the General-Secretary of the UN there is no institution or independent agency (judiciary) which performs the functions of control or oversight over the decisions of UNMIK. Thus, the Special Representative of the Secretary-General is vested with powers like an absolute monarch. One has to admit that the question, how to deal in terms of the rule of law and due process with an internationally established administration performing state functions, is very new and not easy to answer. But as long as no supervisory board or court exists to review UNMIK's executive behaviour, a *code of conduct* should be promulgated in order to rationalise and limit the powers of UNMIK.

II.2.4. Building of "bottom-up" structures

The transitional period before the beginning of a constitution making process for the whole FRY should be used for the establishment of an indigenous administration at first on the local level. The municipalities have to be reorganised according to the principle of multi-ethnicity in a first stage. That includes fair and free local elections as well as democratic structures of local administration. With support of UNMIK a transitional local government act must be elaborated and promulgated. Democratisation of Kosovo means decentralisation and devolution of powers to local authorities. The present government of UNMIK based on "top-down" structures has to be replaced step by step by "bottom-up" structures.

II.2.4.1. Local Authorities

- The establishment of political structures should start at the bottom that is on the municipal level and continue on district (cantonal?) up to the provincial level.
- Initiatives and in particular achievements for democratic legitimate political structures on the municipal level should be promoted with incentives by the reconstruction fund and specific achievements should get special awards.

II.2.4.2. Provincial level

- The structure of the province should be established in a democratic procedures, when at least 50 % of the municipalities have installed legitimate democratic structures.
- If on the provincial level some federal structures should be introduced (cantonalisation) such structures should be set up by the respecting representatives of the different communities according to the consensus principle.

II.2.5. "Federalisation" or "Cantonisation" of Kosovo

The main international documents addressing the future status of Kosovo opt for a multi-ethnic province which gives the different ethnic groups an opportunity to live peaceful together in a more or less mixed society. But this concept contrasts very much with the violent reality and cannot be implemented in an atmosphere of hatred and vengeance. Therefore, one should think about a federalisation or cantonisation of Kosovo in the transitional phase for a limited period of time. This possible division of different ethnic groups may help to overcome the hostilities and to facilitate steps to reconciliation. According to the main guidelines such important changes of the very structure of Kosovo need consensus procedures among all important parties concerned.

II.2.6. Main guidelines:

II.2.6.1. Consensus

Essential political decisions affecting the different ethnic communities should be taken on the bases of a consensus of different ethnic communities affected by the decision.

II.2.6.2. Rambouillet Agreement

The main guideline for the political structure of the province have been established in the Rambouillet Agreement and should only be changed on the bases of a mutual consensus agreement of all parties involved.

II.2.6.3. Refugees

For all decisions affecting the future of local authorities or of the province, refugees living outside the province have to be included in the political decision making process.

II.3. Medium-term measures for the FRY

Medium-term measures for the whole FRY should focus (1.) the concept of conditionality and (2.) the existing isolation of the FRY in the international scenery.

II.3.1. Revision of the concept of "conditionality"

The above mentioned concept of "conditionality" of the EU has to be reviewed and revised. The existing link between economic cooperation and financial support by the EU and the overall condition of the withdrawal or resignation of Milosevic lead to a deadlock. One the one hand it is further necessary to insist on democratic reforms in the FRY; but on the other hand the activities of the international community depend on the political behaviour of only one political leader. Therefore, the concept of constitutionality has to be amended by the principles of simultaneity and graduality: As soon as the FRY government makes serious efforts towards democratic reforms and the more these reforms were implemented the closer should be the economic and financial cooperation with the FRY in the next future.

II.3.2. From Intervention to Integration

Up to now the policies of the international community with regard to the FRY are characterised by means of intervention from abroad. Memberships of the FRY in international organisations are suspended; the international relations with the FRY are "frozen". Consequently, the government of the FRY is totally isolated. But the question is: *cui bono*? The Yugoslav people is suffering under the sanctions and the political leaders are able to make the international community responsible for this deplorable situation. Furthermore, it is easy for them to convince the people not to change horses in the middle of the river. Thus, the international "outlawing" of the present

government of the FRY does not weaken it; in the contrary: it has rather stabilising and strengthening effects. Therefore, the policies of the international community have to be changed or at least modified. The government of the FRY should be involved in the various activities from abroad; it must be made accountable for its political mistakes and crimes against humanity. It should even get a fair chance to point out its position in public and give some reasons for its behaviour if possible. For this purpose it would be not enough to lift sanctions. The FRY has to be readmitted to international organisations and reaccepted by the international community. With other words: The political strategy of the United Nations as well as of the European institutions must be changed and go over from intervention to integration. Only an integrative approach can lead in the long run to a mutual understanding and a peaceful development in the FRY.

III. LONG-TERM ACTIVITIES

III.1. Introduction

The core content of all long-term activities of the international community as well as of all political forces in the FRY should be a substantial support for a *constitution making process*. Only within the framework of a new constitution for the entire FRY the future status of Kosovo can be defined. It would be an inexcusable error to believe that the political problems of Kosovo could be separated from the developments of the whole region, in particular from the constitutional reconstruction of the FRY in general. Even the constitution making process itself can produce a lot of important unifying side effects and facilitate the growth of tolerance and conciliation.

If these aims should be reached the constitution making process must be organised according to the following special requirements: the process must be

- open to the public and accessible for the people;
- representative with regard to different ethnic groups;
- participatory in order to involve the civil society;
- consensus oriented, not majoritarian;
- integrative, not polarising.

A very good example for a successful procedure under these conditions was the creation of a new constitution in the *Republic of South Africa* from 1992 to 1996 after the collapse of the apartheid regime. When Nelson Mandela was finally released from prison in

December 1991, the negotiation process between the government and the democratic opposition begun. Initially the ANC and the National Party had to find an agreement on the transitional period and the constitution-making process. While the ANC at first demanded direct elections for a Constitutional Assembly, the NP preferred an all-party congress in the beginning because they believed they could steer the process better. As a result they found a compromise: Known as the Convention for a Democratic South Africa (Codesa), delegates from 19 political parties met at the World Trade Centre in Kempton Park, Johannesburg. After two days, a Declaration of Intent was issued. The Inkatha Freedom Party and the Bophuthatswana government refused to sign. Simultaneously a National Peace Accord has been signed by twenty-eight political parties and organisations in order to end violence and bring about peace.

In March 1992, seeking a mandate from the white electorate to continue negotiations, FW de Klerk held a referendum. He won a 68.7 % endorsement. In mid-May 1992 the Codesa process collapsed over largely technical issues. After some time in September 1992 FW de Klerk and Nelson Mandela signed a Record of Understanding and multi-party talks were to be resumed. In July 1993 initially twenty-six constitutional - later expanded to 34 principles have been adopted as the foundation for a new constitution. Codesa also drafted an Interim Constitution to be adopted by the old Apartheid parliament, which should expire automatically after two years. This served as a basis for free, fair and equal elections for a national parliament, consisting of 400 members of the National Assembly and 90 members of the Senate (10 members per province).

On 26-29 April 1994 South Africa's first democratic parliament has been elected. Both houses of the Parliament then formed the Constitutional Assembly and a Government of National Unity has been composed. In order to hold on to the initial agreements reached at Codesa the 34 constitutional principles were binding for the final constitution-making process and even more under supervision of the newly created constitutional court. Between August 1995 and May 1996 a final constitution has been drafted in order to substitute the Interim Constitution. After most difficult discussions in the Constitutional Assembly and its committees, an overwhelming majority in parliament voted in favour of the final constitution. After a review of the Constitutional Court, which once referred the constitution back to the Constitutional Assembly, finally on December 10, 1996 the constitution has been signed into law by President Nelson Mandela.

Although no plebiscite of the people took place in the adoption of the constitution, this always has been a procedural option in case, that the deadline for the constitution-making process, set up in the Interim

Constitution, would not be met. Furthermore all sittings of the CA and its subcommittees have been open to the public; media reported extensively on the matter, the CA even created an own organ „Constitutional Talks“, submissions have been made in a huge number (5 Millions), all documents and minutes of the meetings have been available in the internet, posters have been created, comic brochures for illiterate people and extensive TV coverage.

The constitution-making process within the CA has been marked by an impressive spirit of consensus seeking, respecting minority parties as well as individual opinions. Regarding the animosities and hostilities amongst blacks and whites under the apartheid-regime, this understanding was nothing less than a miracle. With regard to the present situation in the FRY the example of the RSA process tells us that constitution making is an exclusive task for the Yugoslav people itself (III.2); the international community is only entitled to support and to monitor this process (III.3).

III.2. Constitution making in the FRY

III.2.1. Fundamental Problems of the Constitution Making in the FRY of Yugoslavia

The Yugoslav political process has to overcome at the same time two major issues unlike most other constitutional processes:

1. **State-issue.** At the moment the FRY is still confronted with the very state issue. Borderlines are disputed. In addition the question what nations belong or do not belong to the state is at stake. In such context any democratic development lacks legitimacy because it is not clear for the future within what borderline and among what people democratic decisions will have to be taken.

2. **Regime-issue.** Apart from the state issue Yugoslavia has to find the fundament for a new legitimate government and constitution. This legitimacy does depend on the one hand on the rule of law, democracy and decentralisation. On the other hand it requires a nation building process in order to create common values that are accepted and promoted by the great bulk of the society living within the new state.

This two fold problem of the open state including the nation building issue and the regime is the very problem the actual opposition is confronted with. It is almost impossible to gain credibility as opposition to the regime, when at the same time the state issue is disputed.

Seeking historical analogues to such a situation it seems that only the South African process may give some lessons for the procedure and

the aims to be achieved in the FRY. However we have to be aware, that in S.A. only the nation issue and the regime issue were at stake, in the FRY additionally the State issue with regard to the borderlines is open.

III.2.2. The South African Process as a Model?

Similar to the South African model the constitution making process in the FRY should also consist of two phases: a preparatory phase leading to an interim constitution and a main phase dedicated to the final constitution.

In the preparatory phase all groups and institutions of the civil society (parties, trade unions, employers associations, churches and religious organisations, NGOs, grass-roots, women's leagues, representatives of the media, of sports, of consumers, of science, arts and culture etc.) shall convene in a "Conference for a Democratic Federal Republic of Yugoslavia" (CODEFRY). The members are not elected, but only nominated by the respective organisations. This conference has a double job: first to elaborate an interim constitution, second to set up principles binding the constitution makers in the main phase in order to guarantee that the results of a consensus reached in this conference were recognised as guidelines also by the decisive body. The interim constitution valid only for a limited period of time has two functions: It shall provide for a constitutional court and serve as the basis for general elections to a National Assembly, the creator of the final constitution.

The main phase fully occupied by the negotiations on the final constitution in the National Assembly (and/or in a special constitutional committee of the NA) should end with a draft constitution subject to examination by the constitutional court whether or not it meets the criteria and principles set up by CODEFRY. After this certification procedure before the court the draft constitution can be submitted to the people for approval in a referendum. This kind of peoples' participation would vest the final constitution with the highest degree of legitimation.

With regard to the FRY the international community should not interfere or participate directly in the negotiations on the final constitution. But it can provide constitutional experts from abroad, may be asked for financial support and shall stay in the background ready for mediation if necessary or welcomed. Furthermore, international observers may watch and monitor the constitution making process in the FRY.

III.2.3. Procedure for Constitution making:

One of the most impressive procedure for reconciliation and constitution making of this century is without any doubt the South African constitution making process. We consider that this process should also inspire national and international authorities for the democratic development of Yugoslavia.

III.2.3.1. CODEYU

As a first step the international community could organise a Convention for Democracy of Yugoslavia (CODEYU). For this convention all different parties of the entire country should be invited to participate. The aim of the CODEYU should be:

- Reconciliation in order to have a common understanding for the future of Yugoslavia;
- Decide on the different steps to be taken for the constitution making process;
- Establish some fundamental principles which should be respected in the final constitution (cf. II.3.2. Constitutional Principles);

III.2.3.2. Interim Constitution

As in South Africa the constitution making process could be initiated by the formal acceptance of some fundamental constitutional principles, which would have to be respected in the constitution making process. Their implementation should be guaranteed by a constitutional court which should certify, whether the final draft of the constitution corresponds to the constitutional principles.

On the bases of a consensus between the CODEYU and the constitution branch of government according to the actual Yugoslav Constitution a Interim constitution could be enforced which should provide general democratic and free elections of a constitutional assembly and guarantee the transitory power until the new constitution would get into force.

III.2.4. Constitutional Principles

The following principles adapt the "Schedule" 4 (Annex 10) of the constitutional principle set up in the South African constitutional process. Schedule 4 is one of the most impressive documents of our century, as those principles have been established by consensus of all parties concerned in a most conflictual situation. Thus it can give

important hints to be followed within the FRY context. With regard to this context, the content of the principles has been adapted and some guidelines of the Rambouillet Agreement have been included.

Chapter 1: Fundamental Rights

Article 1: Citizenship

The Constitution of Yugoslavia shall provide for the establishment of a sovereign state, a common Yugoslav citizenship (not excluding republican and / or provincial citizenship) and a democratic system of government committed to achieving equality between men and women and people of all races.

Article 2: Protection of Fundamental Rights

Everyone shall enjoy all fundamental rights, freedoms and civil liberties protected in the relevant international and European documents.

Article 3: Equal Protection

- (1) The Constitution shall prohibit racial, gender and all other forms of discrimination and shall promote racial and gender equality and national unity.
- (2) The legal system shall ensure the equality of all before the law and an equitable legal process. Equality before the law includes laws, programmes or activities that have as their object the amelioration of the conditions of the disadvantaged, including those disadvantaged on the grounds of race, colour or gender.

Article 4: Labour Law

The right of employers and employees to join and form employer organisations and trade unions and to engage in collective bargaining shall be recognised and protected. Provision shall be made that every person shall have the right to fair labour practices.

Chapter 2: Rights of Communities

Article 5: Multiculturalism

The diversity of language and culture shall be acknowledged and protected, and conditions for their promotion shall be encouraged.

Article 6: Collective Rights

- (1) Collective rights of self-determination in forming, joining and maintaining organs of civil society, including linguistic, cultural and religious associations, shall, on the basis of non-

discrimination and free association, be recognised and protected.

- (2) Members of national communities shall also be individually guaranteed:
 - (a) the right to enjoy unhindered contacts with members of their respective national communities elsewhere in the Federal Republic of Yugoslavia and abroad;
 - (b) equal access to employment in public services at all levels;
 - (c) the right to use their languages and alphabets;
 - (d) the right to use and display national community symbols;
 - (e) the right to participate in democratic institutions that will determine the national community's exercise of the collective rights set forth in this Article; and
 - (f) the right to establish cultural and religious associations, for which relevant authorities will provide financial assistance.
- (3) Each national community and, where appropriate, their members acting individually may exercise these additional rights through national institutions and institutions of the Republics or Provinces, in accordance with the procedures of those institutions
- (4) Every person shall have the right freely to choose to be treated or not to be treated as belonging to a national community, and no disadvantage shall result from that choice or from the exercise of the rights connected to that choice.

Chapter 3: Government

Article 7: Separation of Powers

There shall be a separation of powers between the legislature, executive and judiciary, with appropriate checks and balances to ensure accountability, responsiveness and openness.

Article 8: Democratic Government

- (1) There shall be representative government embracing multi-party democracy, regular elections, universal adult suffrage, a common voters' roll, and, in general, proportional representation.

- (2) Special provisions shall provide specific procedures for the protection of vital interests of minority communities.

Article 9: Minority Parties

Provision shall be made for participation of minority political parties in the legislative process in a manner consistent with democracy.

Article 10: Legislative Procedures

Formal legislative procedures shall be adhered to by legislative organs at all levels of government.

Article 11: Independent Judiciary

The judiciary shall be appropriately qualified, independent and impartial and shall have the power and jurisdiction to safeguard and enforce the Constitution and all fundamental rights.

Article 12: Freedom of Information

Provision shall be made for freedom of information so that there can be open and accountable administration at all levels of government.

Chapter 4: Federal / Confederal Structure

Article 13: Principle

- (1) Government shall be structured at national, provincial and local levels on a federal or confederal bases.
- (2) At each level of government there shall be democratic representation.
- (3) The national government shall not exercise its powers (exclusive or concurrent) so as to encroach upon the geographical, functional or institutional integrity of the Republics or provinces.

Article 14: Self Rule and Shared Rule

- (1) The powers and functions of the national government and the governments of Republics and / or Provinces and the boundaries of the Republics or provinces shall be defined in the Constitution; disputed boundaries may be determined through popular referendum respecting the majorities of all communities concerned.
- (2) The powers and functions of the Republics or Provinces defined in the Constitution, including the competence of a republican or provincial legislature to adopt a constitution for its Republic or Province, shall not be substantially less than or substantially inferior to those provided for in this Constitution.

- (3) The powers and functions at the national republican and / or provincial levels of government shall include exclusive and concurrent powers as well as the power to perform functions for other levels of government on an agency or delegation basis.
- (4) Amendments to the Constitution which alter the powers, boundaries, functions or institutions of Republics or provinces shall in addition to any other procedures specified in the Constitution for constitutional amendments, require the approval of a special majority of the legislatures of the Republics and / or provinces.
- (5) Provision shall be made for obtaining the views of a Republican and / or provincial legislature concerning all constitutional amendments regarding its powers, boundaries and functions

Article 14: Legitimacy and Subsidiarity

- (1) Each level of government shall have appropriate and adequate legislative and executive powers and functions that will enable each level to function effectively.
- (2) The allocation of powers between different levels of government shall be made on a basis which is conducive to financial viability at each level of government and to effective public administration, and which recognises the need for and promotes national unity and legitimate republican and / or provincial autonomy and acknowledges cultural diversity.
- (3) The following criteria shall be applied in the allocation of powers to the national government, republican and / or the provincial governments:
 - 1. The level at which decisions can be taken most effectively in respect of the quality and rendering of services, shall be the level responsible and accountable for the quality and the rendering of the services, and such level shall accordingly be empowered by the Constitution to do so.
 - 2. Where it is necessary for the maintenance of essential national standards, for the establishment of minimum standards required for the rendering of services, the maintenance of economic unity, the maintenance of national security or the prevention of unreasonable action taken by one Republic and / or province which is prejudicial to the interests of another Republic and / or province or the country as a whole, the Constitution shall empower the national government to intervene

through legislation or such other steps as may be defined in the Constitution.

3. Where there is necessity for Yugoslavia to speak with one voice, or to act as a single entity in particular in relation to other states powers should be allocated to the national government.
4. Where uniformity across the nation is required for a particular function, the legislative power over that function should be allocated predominantly, if not wholly, to the national government.
5. The determination of national economic policies, and the power to promote inter-republican and / or inter-provincial commerce and to protect the common market in respect of the mobility of goods, services, capital and labour, should be allocated to the national government.
6. Republican and / or Provincial governments shall have powers, either exclusively or concurrently with the national government, *inter alia* -
 - (a) for the purposes of republican and / or provincial planning and development and the rendering of services; and
 - (b) in respect of aspects of government dealing with specific socio-economic and cultural needs and the general well-being of the inhabitants of the Republic and / or province.
7. Where mutual co-operation is essential or desirable or where it is required to guarantee equality of opportunity or access to a government service, the powers should be allocated concurrently to the national government and the republican and / or provincial governments.
8. The Constitution shall specify how powers which are not specifically allocated in the Constitution to the national government or to a republican or provincial government, shall be dealt with as necessary ancillary powers pertaining to the powers and functions allocated either to the national government republican or provincial governments.

Article 15: Disputes:

In the event of a dispute concerning the legislative powers allocated by the Constitution concurrently to the national government and

provincial governments which cannot be resolved by a court on a construction of the Constitution, precedence shall be given to the legislative powers of the national government.

Article 16: Local Government

- (1) A framework for local government powers, functions and structures shall be set out in the Constitution.
- (2) The comprehensive powers, functions and other features of local government shall be set out in parliamentary statutes, republican or provincial legislation.

Article 17: Fiscal Power:

- (1) The national government, the republican and provincial governments shall have fiscal powers and functions which will be defined in the Constitution. The framework for local government shall make provision for appropriate fiscal powers and functions for different categories of local government.
- (2) Each level of government shall have a constitutional right to an equitable share of revenue collected nationally so as to ensure that Republics, provinces and local governments are able to provide basic services and execute the functions allocated to them.

Article 18: Public Service

- (1) There shall be an efficient, non-partisan, career-orientated public service broadly representative of the Yugoslav community, functioning on a basis of fairness and which shall serve all members of the public in an unbiased and impartial manner, and shall, in the exercise of its powers and in compliance with its duties, loyally execute the lawful policies of the government of the day in the performance of its administrative functions. The structures and functioning of the public service, as well as the terms and conditions of service of its members, shall be regulated by law.
- (2) Every member of the public service shall be entitled to a fair pension.
- (3) Every member of the security forces (police, military and intelligence), and the security forces as a whole, shall be required to perform their functions and exercise their powers in the national interest and shall be prohibited from furthering or prejudicing party political interest.

Chapter 5: Constitution

Article 19 Constitution-making Body

- (1) A specially elected National Assembly composed of proportional representation of all different communities shall be the Constitutional Assembly.
- (2) The Constitutional Assembly shall draft and adopt a new constitutional text in accordance with these Principles.
- (3) The Constitutional Assembly may make rules and orders in connection with the conduct of its business and proceedings.

Article 20 Constitutional Principles and Certification

- (1) A new constitutional text shall comply with the Constitutional Principles contained in these principles
- (2) The new constitutional text passed by the Constitutional Assembly, or any provision thereof, shall not be of any force and effect unless the Constitutional Court has certified that all the provisions of such text comply with these Constitutional Principles and are finally approved in a popular Referendum.

Article 21: Supreme Law of the Land

The Constitution shall be the supreme law of the land. It shall be binding on all organs of state at all levels of government.

Article 22: Constitutional Amendments

Amendments to the Constitution shall require special procedures protecting vital interests of ethnic communities and involving special majorities including popular referendum.

Article 23: Transition

- (1) The Constitution shall provide that until 2005? the national executive shall be composed.
- (2) The Constitution shall provide that, unless Parliament is dissolved on account of its passing a vote of no-confidence in the Cabinet, no national election shall be held before December 2005.

ANNEXES

A. INTERNATIONAL CONTEXT

ANNEX 1: UNITED NATIONS SECURITY COUNCIL RESOLUTION No. 1244 (1999)

Adopted by the Security Council at its 4011th meeting, on 10 June 1999

The Security Council,

Bearing in mind the purposes and principles of the Charter of the United Nations, and the primary responsibility of the Security Council for the maintenance of international peace and security,

Recalling its resolutions 1160 (1998) of 31 March 1998, 1199 (1998) of 23 September 1998, 1203 (1998) of 24 October 1998 and 1239 (1999) of 14 May 1999,

Regretting that there has not been full compliance with the requirements of these resolutions,

Determined to resolve the grave humanitarian situation in Kosovo, Federal Republic of Yugoslavia, and to provide for the safe and free return of all refugees and displaced persons to their homes,

Condemning all acts of violence against the Kosovo population as well as all terrorist acts by any party,

Recalling the statement made by the Secretary-General on 9 April 1999, expressing concern at the humanitarian tragedy taking place in Kosovo,

Reaffirming the right of all refugees and displaced persons to return to their homes in safety,

Recalling the jurisdiction and the mandate of the International Tribunal for the Former Yugoslavia,

Welcoming the general principles on a political solution to the Kosovo crisis adopted on 6 May 1999 (S/1999/516, annex 1 to this resolution) and welcoming also the acceptance by the Federal Republic of Yugoslavia of the principles set forth in points 1 to 9 of the paper presented in Belgrade on 2 June 1999 (S/1999/649, annex 2 to this resolution), and the Federal Republic of Yugoslavia's agreement to that paper,

Reaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other States of the region, as set out in the Helsinki Final Act and annex 2,

Reaffirming the call in previous resolutions for substantial autonomy and meaningful self-administration for Kosovo,

Determining that the situation in the region continues to constitute a threat to international peace and security,

Determined to ensure the safety and security of international personnel and the implementation by all concerned of their responsibilities under the present resolution, and acting for these purposes under Chapter VII of the Charter of the United Nations,

1. Decides that a political solution to the Kosovo crisis shall be based on the general principles in annex 1 and as further elaborated in the principles and other required elements in annex 2;
2. Welcomes the acceptance by the Federal Republic of Yugoslavia of the principles and other required elements referred to in paragraph 1 above, and demands the full cooperation of the Federal Republic of Yugoslavia in their rapid implementation;
3. Demands in particular that the Federal Republic of Yugoslavia put an immediate and verifiable end to violence and repression in Kosovo, and begin and complete verifiable phased withdrawal from Kosovo of all military, police and paramilitary forces according to a rapid timetable, with which the deployment of the international security presence in Kosovo will be synchronized;
4. Confirms that after the withdrawal an agreed number of Yugoslav and Serb military and police personnel will be permitted to return to Kosovo to perform the functions in accordance with annex 2;
5. Decides on the deployment in Kosovo, under United Nations auspices, of international civil and security presences, with appropriate equipment and personnel as required, and welcomes the agreement of the Federal Republic of Yugoslavia to such presences;
6. Requests the Secretary-General to appoint, in consultation with the Security Council, a Special Representative to control the implementation of the international civil presence, and further requests the Secretary-General to instruct his Special Representative to coordinate closely with the international security presence to ensure that both presences operate towards the same goals and in a mutually supportive manner;
7. Authorizes Member States and relevant international organizations to establish the international security presence in Kosovo as set out in

point 4 of annex 2 with all necessary means to fulfil its responsibilities under paragraph 9 below;

8. Affirms the need for the rapid early deployment of effective international civil and security presences to Kosovo, and demands that the parties cooperate fully in their deployment;

9. Decides that the responsibilities of the international security presence to be deployed and acting in Kosovo will include:

(a) Deterring renewed hostilities, maintaining and where necessary enforcing a ceasefire, and ensuring the withdrawal and preventing the return into Kosovo of Federal and Republic military, police and paramilitary forces, except as provided in point 6 of annex 2;

(b) Demilitarizing the Kosovo Liberation Army (KLA) and other armed Kosovo Albanian groups as required in paragraph 15 below;

(c) Establishing a secure environment in which refugees and displaced persons can return home in safety, the international civil presence can operate, a transitional administration can be established, and humanitarian aid can be delivered;

(d) Ensuring public safety and order until the international civil presence can take responsibility for this task;

(e) Supervising demining until the international civil presence can, as appropriate, take over responsibility for this task;

(f) Supporting, as appropriate, and coordinating closely with the work of the international civil presence;

(g) Conducting border monitoring duties as required;

(h) Ensuring the protection and freedom of movement of itself, the international civil presence, and other international organizations;

10. Authorizes the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo;

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

(a) Promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo, taking full account of annex 2 and of the Rambouillet accords (S/1999/648);

(b) Performing basic civilian administrative functions where and as long as required;

(c) Organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections;

(d) Transferring, as these institutions are established, its administrative responsibilities while overseeing and supporting the consolidation of Kosovo's local provisional institutions and other peace-building activities;

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

(f) In a final stage, overseeing the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement;

(g) Supporting the reconstruction of key infrastructure and other economic reconstruction;

(h) Supporting, in coordination with international humanitarian organizations, humanitarian and disaster relief aid;

(i) Maintaining civil law and order, including establishing local police forces and meanwhile through the deployment of international police personnel to serve in Kosovo;

(j) Protecting and promoting human rights;

(k) Assuring the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo;

12. Emphasizes the need for coordinated humanitarian relief operations, and for the Federal Republic of Yugoslavia to allow unimpeded access to Kosovo by humanitarian aid organizations and to cooperate with such organizations so as to ensure the fast and effective delivery of international aid;

13. Encourages all Member States and international organizations to contribute to economic and social reconstruction as well as to the safe return of refugees and displaced persons, and emphasizes in this context the importance of convening an international donors' conference, particularly for the purposes set out in paragraph 11 (g) above, at the earliest possible date;

14. Demands full cooperation by all concerned, including the international security presence, with the International Tribunal for the Former Yugoslavia;

15. Demands that the KLA and other armed Kosovo Albanian groups end immediately all offensive actions and comply with the requirements for demilitarization as laid down by the head of the international security presence in consultation with the Special Representative of the Secretary-General;

16. Decides that the prohibitions imposed by paragraph 8 of resolution 1160 (1998) shall not apply to arms and related matériel for the use of the international civil and security presences;

17. Welcomes the work in hand in the European Union and other international organizations to develop a comprehensive approach to the economic development and stabilization of the region affected by the Kosovo crisis, including the implementation of a Stability Pact for South Eastern Europe with broad international participation in order to further the promotion of democracy, economic prosperity, stability and regional cooperation;

18. Demands that all States in the region cooperate fully in the implementation of all aspects of this resolution;

19. Decides that the international civil and security presences are established for an initial period of 12 months, to continue thereafter unless the Security Council decides otherwise;

20. Requests the Secretary-General to report to the Council at regular intervals on the implementation of this resolution, including reports from the leaderships of the international civil and security presences, the first reports to be submitted within 30 days of the adoption of this resolution;

21. Decides to remain actively seized of the matter.

ANNEX 2: S/1999/516

UNITED NATIONS Security Council

S/1999/516

6 May 1999

ORIGINAL: ENGLISH

LETTER DATED 6 MAY 1999 FROM THE PERMANENT
REPRESENTATIVE OF GERMANY TO THE UNITED NATIONS
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to bring to your attention the statement by the Chairman of the meeting of the G-8 Foreign Ministers held at the Petersberg Centre on 6 May 1999.

I would be grateful if the text of this letter and its annex were circulated as a document of the Security Council.

(Signed) Dieter KASTRUP

Permanent Representative

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S/1999/516

Page 2

Annex

Statement by the Chairman on the conclusion of the meeting of the G-8 Foreign Ministers held at the Petersberg Centre on 6 May 1999

1. The G-8 Foreign Ministers adopted the following general principles on the political solution to the Kosovo crisis:

- Immediate and verifiable end of violence and repression in Kosovo;
- Withdrawal from Kosovo of military, police and paramilitary forces;
- Deployment in Kosovo of effective international civil and security presences, endorsed and adopted by the United Nations, capable of guaranteeing the achievement of the common objectives;

- Establishment of an interim administration for Kosovo to be decided by the Security Council of the United Nations to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo;
 - The safe and free return of all refugees and displaced persons and unimpeded access to Kosovo by humanitarian aid organizations;
 - A political process towards the establishment of an interim political framework agreement providing for a substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarization of the KLA;
 - Comprehensive approach to the economic development and stabilization of the crisis region.
2. In order to implement these principles the G-8 Foreign Ministers instructed their Political Directors to prepare elements of a United Nations Security Council resolution.
 3. The Political Directors will draw up a roadmap on further concrete steps towards a political solution to the Kosovo crisis.
 4. The G-8 Presidency will inform the Chinese Government on the results of today's meeting.
 5. Foreign Ministers will reconvene in due time to review the progress which has been achieved up to that point.

ANNEX 3: S/1999/649

UNITED NATIONS Security Council

S/1999/649

7 June 1999

ORIGINAL: ENGLISH

**LETTER DATED 7 JUNE 1999 FROM THE PERMANENT
REPRESENTATIVE OF GERMANY TO THE UNITED NATIONS
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL**

On behalf of the Presidency of the European Union, I have the honour to bring to your attention the agreement on the principles (peace plan) to move towards a resolution of the Kosovo crisis presented to the leadership of the Federal Republic of Yugoslavia by the President of Finland, Martti Ahtisaari, representing the European Union, and Viktor Chernomyrdin, Special Representative of the President of the Russian Federation. The Government of the Federal Republic of Yugoslavia and the Assembly of the Republic of Serbia accepted this document on 3 June 1999.

I should be grateful if you would have the text of the present letter and its annex circulated as a document of the Security Council.

(Signed) Dieter KASTRUP

Ambassador

S/1999/649

Annex

Agreement should be reached on the following principles to move towards a resolution of the Kosovo crisis:

1. An immediate and verifiable end of violence and repression in Kosovo.
2. Verifiable withdrawal from Kosovo of all military police and paramilitary forces according to a rapid timetable.
3. Deployment in Kosovo under United Nations auspices of effective international civil and security presences, acting as may be decided

under Chapter VII of the Charter, capable of guaranteeing the achievement of common objectives.

4. The international security presence with substantial North Atlantic Treaty Organization participation must be deployed under unified command and control and authorized to establish a safe environment for all people in Kosovo and to facilitate the safe return to their homes of all displaced persons and refugees.

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

6. After withdrawal, an agreed number of Yugoslav and Serbian personnel will be permitted to return to perform the following functions:

- Liaison with the international civil mission and the international security presence;
- Marking/clearing minefields;
- Maintaining a presence at Serb patrimonial sites;
- Maintaining a presence at key border crossings.

7. Safe and free return of all refugees and displaced persons under the supervision of the Office of the United Nations High Commissioner for Refugees and unimpeded access to Kosovo by humanitarian aid organizations.

8. A political process towards the establishment of an interim political framework agreement providing for substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarization of UCK. Negotiations between the parties for a settlement should not delay or disrupt the establishment of democratic self-governing institutions.

9. A comprehensive approach to the economic development and stabilization of the crisis region. This will include the implementation of a stability pact for South-Eastern Europe with broad international participation in order to further promotion of democracy, economic prosperity, stability and regional cooperation.

10. Suspension of military activity will require acceptance of the principles set forth above in addition to agreement to other, previously identified, required elements, which are specified in the footnote below. A military-technical agreement will then be rapidly concluded that would, among other things, specify additional modalities, including the roles and functions of Yugoslav/Serb personnel in Kosovo:

Withdrawal

- Procedures for withdrawals, including the phased, detailed schedule and delineation of a buffer area in Serbia beyond which forces will be withdrawn;

Returning personnel

- Equipment associated with returning personnel;
- Terms of reference for their functional responsibilities;
- Timetable for their return;
- Delineation of their geographical areas of operation;
- Rules governing their relationship to the international security presence and the international civil mission.

Notes

Other required elements:

- A rapid and precise timetable for withdrawals, meaning, e.g., seven days to complete withdrawal and air defence weapons withdrawn outside a 25 kilometre mutual safety zone within 48 hours;
- Return of personnel for the four functions specified above will be under the supervision of the international security presence and will be limited to a small agreed number (hundreds, not thousands);
- Suspension of military activity will occur after the beginning of verifiable withdrawals;
- The discussion and achievement of a military-technical agreement shall not extend the previously determined time for completion of withdrawals.

ANNEX 4: MILITARY TECHNICAL AGREEMENT

between the International Security Force ("KFOR") and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia

Article I: General Obligations

1. The Parties to this Agreement reaffirm the document presented by President Ahtisaari to President Milosevic and approved by the Serb Parliament and the Federal Government on June 3, 1999, to include deployment in Kosovo under UN auspices of effective international civil and security presences. The Parties further note that the UN Security Council is prepared to adopt a resolution, which has been introduced, regarding these presences.

2. The State Governmental authorities of the Federal Republic of Yugoslavia and the Republic of Serbia understand and agree that the international security force ("KFOR") will deploy following the adoption of the UNSCR referred to in paragraph 1 and operate without hindrance within Kosovo and with the authority to take all necessary action to establish and maintain a secure environment for all citizens of Kosovo and otherwise carry out its mission. They further agree to comply with all of the obligations of this Agreement and to facilitate the deployment and operation of this force.

3. For purposes of the agreement, the following expressions shall have the meanings as described below:

a. "The Parties" are those signatories to the Agreement.

b. "Authorities" means the appropriate responsible individual, agency, or organisation of the Parties.

c. "FRY Forces" includes all of the FRY and Republic of Serbia personnel and organisations with a military capability. This includes regular army and naval forces, armed civilian groups, associated paramilitary groups, air forces, national guards, border police, army reserves, military police, intelligence services, federal and Serbian Ministry of Internal Affairs local, special, riot and anti-terrorist police, and any other groups or individuals so designated by the international security force ("KFOR") commander.

d. The Air Safety Zone (ASZ) is defined as a 25-kilometre zone that extends beyond the Kosovo province border into the rest of FRY territory. It includes the airspace above that 25-kilometre zone.

e. The Ground Safety Zone (GSZ) is defined as a 5-kilometre zone that extends beyond the Kosovo province border into the rest of FRY territory. It includes the terrain within that 5-kilometre zone.

f. Entry into Force Day (EIF Day) is defined as the day this Agreement is signed.

4. The purposes of these obligations are as follows:

a. To establish a durable cessation of hostilities, under no circumstances shall any Forces of the FRY and the Republic of Serbia enter into, reenter, or remain within the territory of Kosovo or the Ground Safety Zone (GSZ) and the Air Safety Zone (ASZ) described in paragraph 3. Article I without the prior express consent of the international security force ("KFOR") commander. Local police will be allowed to remain in the GSZ.

The above paragraph is without prejudice to the agreed return of FRY and Serbian personnel which will be the subject of a subsequent separate agreement as provided for in paragraph 6 of the document mentioned in paragraph 1 of this Article.

b. To provide for the support and authorization of the international security force ("KFOR") and in particular to authorize the international security force ("KFOR") to take such actions as are required, including the use of necessary force, to ensure compliance with this Agreement and protection of the international security force ("KFOR"), and to contribute to a secure environment for the international civil implementation presence, and other international organisations, agencies, and non-governmental organisations (details in Appendix B).

Article II: Cessation of Hostilities

1. The FRY Forces shall immediately, upon entry into force (EIF) of this Agreement, refrain from committing any hostile or provocative acts of any type against any person in Kosovo and will order armed forces to cease all such activities. They shall not encourage, organise or support hostile or provocative demonstrations.

2. Phased Withdrawal of FRY Forces (ground): The FRY agrees to a phased withdrawal of all FRY Forces from Kosovo to locations in Serbia outside Kosovo. FRY Forces will mark and clear minefields, booby traps and obstacles. As they withdraw, FRY Forces will clear all lines of communication by removing all mines, demolitions, booby traps, obstacles and charges. They will also mark all sides of all minefields. International security forces' ("KFOR") entry and

deployment into Kosovo will be synchronized. The phased withdrawal of FRY Forces from Kosovo will be in accordance with the sequence outlined below:

a. By EIF + 1 day, FRY Forces located in Zone 3 will have vacated, via designated routes, that Zone to demonstrate compliance (depicted on the map at Appendix A to the Agreement). Once it is verified that FRY forces have complied with this subparagraph and with paragraph 1 of this Article, NATO air strikes will be suspended. The suspension will continue provided that the obligations of this agreement are fully complied with, and provided that the UNSC adopts a resolution concerning the deployment of the international security force ("KFOR") so rapidly that a security gap can be avoided.

b. By EIF + 6 days, all FRY Forces in Kosovo will have vacated Zone 1 (depicted on the map at Appendix A to the Agreement). Establish liaison teams with the KFOR commander in Pristina.

c. By EIF + 9 days, all FRY Forces in Kosovo will have vacated Zone 2 (depicted on the map at Appendix A to the Agreement).

d. By EIF + 11 days, all FRY Forces in Kosovo will have vacated Zone 3 (depicted on the map at Appendix A to the Agreement).

e. By EIF + 11 days, all FRY Forces in Kosovo will have completed their withdrawal from Kosovo (depicted on map at Appendix A to the Agreement) to locations in Serbia outside Kosovo, and not within the 5 km GSZ. At the end of the sequence (EIF + 11), the senior FRY Forces commanders responsible for the withdrawing forces shall confirm in writing to the international security force ("KFOR") commander that the FRY Forces have complied and completed the phased withdrawal. The international security force ("KFOR") commander may approve specific requests for exceptions to the phased withdrawal. The bombing campaign will terminate on complete withdrawal of FRY Forces as provided under Article II. The international security force ("KFOR") shall retain, as necessary, authority to enforce compliance with this Agreement.

f. The authorities of the FRY and the Republic of Serbia will cooperate fully with international security force ("KFOR") in its verification of the withdrawal of forces from Kosovo and beyond the ASZ/GSZ.

g. FRY armed forces withdrawing in accordance with Appendix A, i.e. in designated assembly areas or withdrawing on designated routes, will not be subject to air attack.

h. The international security force ("KFOR") will provide appropriate control of the borders of FRY in Kosovo with Albania and FYROM (1) until the arrival of the civilian mission of the UN.

3. Phased Withdrawal of Yugoslavia Air and Air Defence Forces (YAADF)

a. At EIF + 1 day, no FRY aircraft, fixed wing and rotary, will fly in Kosovo airspace or over the ASZ without prior approval by the international security force ("KFOR") commander. All air defence systems, radar, surface-to-air missile and aircraft of the Parties will refrain from acquisition, target tracking or otherwise illuminating international security ("KFOR") air platforms operating in the Kosovo airspace or over the ASZ.

b. By EIF + 3 days, all aircraft, radars, surface-to-air missiles including man-portable air defence systems (MANPADS)) and anti-aircraft artillery in Kosovo will withdraw to other locations in Serbia outside the 25 kilometre ASZ.

c. The international security force ("KFOR") commander will control and coordinate use of airspace over Kosovo and the ASZ commencing at EIF. Violation of any of the provisions above, including the international security force ("KFOR") commander's rules and procedures governing the airspace over Kosovo, as well as unauthorised flight or activation of FRY Integrated Air Defence (IADS) within the ASZ, are subject to military action by the international security force ("KFOR"), including the use of necessary force. The international security force ("KFOR") commander may delegate control of normal civilian air activities to appropriate FRY institutions to monitor operations, deconflict international security force ("KFOR") air traffic movements, and ensure smooth and safe operations of the air traffic system. It is envisioned that control of civil air traffic will be returned to civilian authorities as soon as practicable.

Article III: Notifications

1. This agreement and written orders requiring compliance will be immediately communicated to all FRY forces.

2. By EIF +2 days, the State governmental authorities of the FRY and the Republic of Serbia shall furnish the following specific information regarding the status of all FRY Forces:

a. Detailed records, positions and descriptions of all mines, unexploded ordnance, explosive devices, demolitions, obstacles, booby traps, wire entanglement, physical or military hazards to the safe movement of any personnel in Kosovo laid by FRY Forces.

b. Any further information of a military or security nature about FRY Forces in the territory of Kosovo and the GSZ and ASZ requested by the international security force ("KFOR") commander.

Article IV: Establishment of a Joint Implementation Commission (JIC)

A JIC shall be established with the deployment of the international security force ("KFOR") to Kosovo as directed by the international security force ("KFOR") commander.

Article V: Final Authority to Interpret

The international security force ("KFOR") commander is the final authority regarding interpretation of this Agreement and the security aspects of the peace settlement it supports. His determinations are binding on all Parties and persons.

Article VI: Entry Into Force

This agreement shall enter into force upon signature.

Appendices:

A. Phased withdrawal of FRY Forces from Kosovo

B. International security force ("KFOR") operations

1. Consistent with the general obligations of the Military Technical Agreement, the State Governmental authorities of the FRY and the Republic of Serbia understand and agree that the international security force ("KFOR") will deploy and operate without hindrance within Kosovo and with the authority to take all necessary action to establish and maintain a secure environment for all citizens of Kosovo.

2. The international security force ("KFOR") commander shall have the authority, without interference or permission, to do all that he judges necessary and proper, including the use of military force, to protect the international security force ("KFOR"), the international civil implementation presence, and to carry out the responsibilities inherent in this Military Technical Agreement and the Peace Settlement which it supports.

3. The international security force ("KFOR") nor any of its personnel or staff shall be liable for any damages to public or private property that they may cause in the course of duties related to the implementation

of this Agreement. The parties will agree a Status of Forces Agreement (SOFA) as soon as possible.

4.The international security force ("KFOR") shall have the right:

a.To monitor and ensure compliance with this Agreement and to respond promptly to any violations and restore compliance, using military force if required.

This includes necessary actions to:

1.Enforce withdrawals of FRY forces.

2.Enforce compliance following the return of selected FRY personnel to Kosovo

3.Provide assistance to other international entities involved in the implementation or otherwise authorised by the UNSC.

b.To establish liaison arrangements with local Kosovo authorities, and with FRY/Serbian civil and military authorities.

c.To observe, monitor and inspect any and all facilities or activities in Kosovo that the international security force ("KFOR") commander believes has or may have military or police capability, or may be associated with the employment of military or police capabilities, or are otherwise relevant to compliance with this Agreement.

5.Notwithstanding any other provision of this Agreement, the Parties understand and agree that the international security force ("KFOR") commander has the right and is authorised to compel the removal, withdrawal, or relocation of specific Forces and weapons, and to order the cessation of any activities whenever the international security force ("KFOR") commander determines a potential threat to either the international security force ("KFOR") or its mission, or to another Party. Forces failing to redeploy, withdraw, relocate, or to cease threatening or potentially threatening activities following such a demand by the international security force ("KFOR") shall be subject to military action by the international security force ("KFOR"), including the use of necessary force, to ensure compliance.

Footnote:

1.Turkey recognises the Republic of Macedonia with its constitutional name.

B. RAMBOUILLET PROCESS

ANNEX 5: RAMBOUILLET AGREEMENT CHAPTER 1: CONSTITUTION

Affirming their belief in a peaceful society, justice, tolerance, and reconciliation, Resolved to ensure respect for human rights and the equality of all citizens and national communities,

Recognizing that the preservation and promotion of the national, cultural, and linguistic identity of each national community in Kosovo are necessary for the harmonious development of a peaceful society,

Desiring through this interim Constitution to establish institutions of democratic self-government in Kosovo grounded in respect for the territorial integrity and sovereignty of the Federal Republic of Yugoslavia and from this Agreement, from which the authorities of governance set forth herein originate,

Recognizing that the institutions of Kosovo should fairly represent the national communities in Kosovo and foster the exercise of their rights and those of their members, Recalling and endorsing the principles/basic elements adopted by the Contact Group at its ministerial meeting in London on January 29, 1999,

Article I: Principles of Democratic Self-Government in Kosovo

1. Kosovo shall govern itself democratically through the legislative, executive, judicial, and other organs and institutions specified herein. Organs and institutions of Kosovo shall exercise their authorities consistent with the terms of this Agreement.

2. All authorities in Kosovo shall fully respect human rights, democracy, and the equality of citizens and national communities.

3. The Federal Republic of Yugoslavia has competence in Kosovo over the following areas, except as specified elsewhere in this Agreement:

- a) territorial integrity,

- b) maintaining a common market within the Federal Republic of Yugoslavia, which power shall be exercised in a manner that does not discriminate against Kosovo,
- c) monetary policy,
- d) defense,
- e) foreign policy,
- f) customs services,
- g) federal taxation,
- h) federal elections, and
- i) other areas specified in this Agreement.

4. The Republic of Serbia shall have competence in Kosovo as specified in this Agreement, including in relation to Republic elections.

5. Citizens in Kosovo may continue to participate in areas in which the Federal Republic of Yugoslavia and the Republic of Serbia have competence through their representation in relevant institutions, without prejudice to the exercise of competence by Kosovo authorities set forth in this Agreement.

6. With respect to Kosovo:

- a) There shall be no changes to the borders of Kosovo;
- b) Deployment and use of police and security forces shall be governed by Chapters 2 and 7 of this Agreement; and
- c) Kosovo shall have authority to conduct foreign relations within its areas of responsibility equivalent to the power provided to Republics under Article 7 of the Constitution of the Federal Republic of Yugoslavia.

7. There shall be no interference with the right of citizens and national communities in Kosovo to call upon appropriate institutions of the Republic of Serbia for the following purposes:

- a) assistance in designing school curricula and standards;
- b) participation in social benefits programs, such as care for war veterans, pensioners, and disabled persons; and
- c) other voluntarily received services, provided that these services are not related to police and security matters governed by Chapters 2 and 7 of this Agreement, and that

any Republic personnel serving in Kosovo pursuant to this paragraph shall be unarmed service providers acting at the invitation of a national community in Kosovo. The Republic shall have the authority to levy taxes or charges on those citizens requesting services pursuant to this paragraph, as necessary to support the provision of such services.

8. The basic territorial unit of local self-government in Kosovo shall be the commune. All responsibilities in Kosovo not expressly assigned elsewhere shall be the responsibility of the communes.

9. To preserve and promote democratic self-government in Kosovo, all candidates for appointed, elective, or other public office, and all office holders, shall meet the following criteria:

- a) No person who is serving a sentence imposed by the International Criminal Tribunal for the Former Yugoslavia, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may stand as a candidate or hold any office; and
- b) All candidates and office holders shall renounce violence as a mechanism for achieving political goals; past political or resistance activities shall not be a bar to holding office in Kosovo.

Article II: The Assembly General

1. Kosovo shall have an Assembly, which shall be comprised of 120 Members.

- a) Eighty members shall be directly elected.
- b) A further 40 Members shall be elected by the members of qualifying national communities.
 - i. Communities whose members constitute more than 0.5 per cent of the Kosovo population but less than 5 per cent shall have ten of these seats, to be divided among them in accordance with their proportion of the overall population.
 - ii. communities whose members constitute more than 5 per cent of the Kosovo population shall divide the remaining thirty seats equally. The Serb and Albanian national

communities shall be presumed to meet the 5 per cent population threshold. Other Provisions

2. Elections for all Members shall be conducted democratically, consistent with the provisions of Chapter 3 of this Agreement. Members shall be elected for a term of three years.

3. Allocation of seats in the Assembly shall be based on data gathered in the census referred to in Chapter 5 of this Agreement. Prior to the completion of the census, for purposes of this Article declarations of national community membership made during voter registration shall be used to determine the percentage of the Kosovo population that each national community represents.

4. Members of the Assembly shall be immune from all civil or criminal proceedings on the basis of words expressed or other acts performed in their capacity as Members of the Assembly. Powers of the Assembly

5. The Assembly shall be responsible for enacting laws of Kosovo, including in political, security, economic, social, educational, scientific, and cultural areas as set out below and elsewhere in this Agreement. This Constitution and the laws of the Kosovo Assembly shall not be subject to change or modification by authorities of the Republics or the Federation.

a) The Assembly shall be responsible for:

- i. Financing activities of Kosovo institutions, including by levying taxes and duties on sources within Kosovo;
- ii. Adopting budgets of the Administrative organs and other institutions of Kosovo, with the exception of communal and national community institutions unless otherwise specified herein;
- iii. Adopting regulations concerning the organization and procedures of the Administrative organs of Kosovo;
- iv. Approving the list of Ministers of the Government, including the Prime minister;
- v. Coordinating educational arrangements in Kosovo, with respect for the authorities of national communities and Communes;
- vi. Electing candidates for judicial office put forward by the President of Kosovo;

- vii. Enacting laws ensuring free movement of goods, services, and persons in Kosovo consistent with this Agreement;
- viii. Approving agreements concluded by the President within the areas of responsibility of Kosovo;
- ix. Cooperating with the Federal Assembly, and with the Assemblies of the Republics, and conducting relations with foreign legislative bodies;
- x. Establishing a framework for local self- government;.
- xi. Enacting laws concerning inter-communal issues and relations between national communities, when necessary;
- xii. Enacting laws regulating the work of medical institutions and hospitals;
- xiii. Protecting the environment, where inter- communal issues are involved;
- xiv. Adopting programs of economic, scientific, technological, demographic, regional, and social development, as well as urban planning;
- xv. Adopting programs for the development of agriculture and of rural areas;
- xvi. Regulating elections consistent with Chapters 3 and 5;
- xvii. Regulating Kosovo-owned property; and
- xviii. Regulating land registries.

b) The Assembly shall also have authority to enact laws in areas within the responsibility of the Communes if the matter cannot be effectively regulated by the Communes or if regulation by individual Communes might prejudice the rights of other Communes. In the absence of a law enacted by the Assembly under this subparagraph that preempts communal action, the Communes shall retain their authority.

Procedure

6. Laws and other decisions of the Assembly shall be adopted by majority of Members present and voting.

7. A majority of the Members of a single national community elected to the Assembly pursuant to paragraph 1b may adopt a motion that a law or other decision adversely affects the vital interests of their

national community. The challenged law or decision shall be suspended with regard to that national community until the dispute settlement procedure in paragraph 8 is completed.

8. The following procedure shall be used in the event of a motion under paragraph 7:

- a) The Members making the vital interest motion shall give reasons for their motion. The proposers of the legislation shall be given an opportunity to respond.
- b) The Members making the motion shall appoint within one day a mediator of their choice to assist in reaching an agreement with those proposing the legislation.
- c) If mediation does not produce an agreement within seven days, the matter may be submitted for a binding ruling. The decision shall be rendered by a panel comprising three Members of the Assembly: one Albanian and one Serb, each appointed by his or her national community delegation; and a third Member, who will be of a third nationality and will be selected within two days by consensus of the Presidency of the Assembly.
 - i. A vital interest motion shall be upheld if the legislation challenged adversely affects the community's fundamental constitutional rights, additional rights as set forth in Article VII, or the principle of fair treatment.
 - ii. If the motion is not upheld, the challenged legislation shall enter into force for that community.
- d) Paragraph c shall not apply to the selection of Assembly officials.
- e) The Assembly may exclude other decisions from this procedure by means of a law enacted by a majority that includes a majority of each national community elected pursuant to paragraph 1 b). 1.3.

9. A majority of the Members shall constitute a quorum. The Assembly shall otherwise decide its own rules of procedure. Leadership

10. The Assembly shall elect from among its Members a Presidency, which shall consist of a President, two Vice-Presidents, and other leaders in accordance with the Assembly's rules of procedure. Each national community meeting the threshold specified in paragraph 1b) ii) shall, be represented in the leadership. The President of the

Assembly shall not be from the same national community as the President of Kosovo.

11. The President of the Assembly shall represent it, call its sessions to order, chair its meetings, coordinate the work of any committees it may establish, and perform other tasks prescribed by the rules of procedure of the Assembly.

Article III: President of Kosovo

1. There shall be a President of Kosovo, who shall be elected by the Assembly by vote of a majority of its members. The President of Kosovo shall serve for a three-year term. No person may serve more than two terms as President of Kosovo.

2. The President of Kosovo shall be responsible for:

- i. Representing Kosovo, including before any international or Federal body or any body of the Republics;
- ii. Proposing to the Assembly candidates for Prime Minister, the Constitutional Court, the Supreme Court, and other Kosovo judicial offices;
- iii. Meeting regularly with the democratically elected representatives of the national communities;
- iv. Conducting foreign relations and concluding agreements within this power consistent with the authorities of Kosovo institutions under this Agreement. Such agreements shall only enter into force upon approval by the Assembly;
- v. Designating a representative to serve on the Joint Commission established by Article I.2 of Chapter 5 of this Agreement;
- vi. Meeting regularly with the Federal and Republic Presidents; and
- vii. other functions specified herein or by law.

Article IV: Government and Administrative Organs

1. Executive power shall be exercised by the Government. The Government shall be responsible for implementing the laws of Kosovo, and of other government authorities when such responsibilities are devolved by those authorities. The Government shall also have competence to propose laws to the Assembly.

- a) The Government shall consist of a Prime Minister and Ministers, including at least one person from each national community meeting the threshold specified in paragraph 1b) ii) of Article II. Ministers shall head the Administrative Organs of Kosovo.
- b) The candidate for Prime Minister proposed by the President shall put forward a list of Ministers to the Assembly. The Prime Minister, together with the list of Ministers, shall be approved by a majority of those present and voting in the Assembly. In the event that the Prime Minister is not able to obtain a majority for the Government, the President shall propose a new candidate for Prime Minister within ten days.
- c) The Government shall resign if a no confidence motion is adopted by a vote of a majority of the members of the Assembly. If the Prime Minister or the Government resigns, the President shall select a new candidate for Prime Minister who shall seek to form a Government.
- d) The Prime Minister shall call meetings of the Government, represent it as appropriate, and 15.coordinate its work. Decisions of the Government shall require a majority of Ministers present and voting. The Prime Minister shall cast the deciding vote in the event Ministers are equally divided. The Government shall otherwise decide its own rules of procedure.

2. Administrative organs shall be responsible for assisting the Government in carrying out its duties.

- a) National communities shall be fairly represented at all levels in the Administrative Organs.
- b) Any citizen in Kosovo claiming to have been directly and adversely affected by the decision of an executive or administrative body shall have the right to judicial review of the legality of that decision after exhausting all avenues for administrative review. The Assembly shall enact a law to regulate this review.

3. There shall be a Chief Prosecutor who shall be responsible for prosecuting individuals who violate the criminal laws of Kosovo. He shall head an Office of the Prosecutor, which shall at all levels have staff representative of the population of Kosovo.

Article V: Judiciary General

1. Kosovo shall have a Constitutional Court, a Supreme Court, District Courts, and Communal Courts.

2. The Kosovo courts shall have jurisdiction over all matters arising under this Constitution or the laws of Kosovo except as specified in paragraph 3. The Kosovo courts shall also have jurisdiction over questions of federal law, subject to appeal to the Federal courts on these questions after all appeals available under the Kosovo system have been exhausted.

3. Citizens in Kosovo may opt to have civil disputes to which they are party adjudicated by other courts in the Federal Republic of Yugoslavia, which shall apply the law applicable in Kosovo. 16.

4. The following rules will apply to criminal cases:

- a) At the start of criminal proceedings, the defendant is entitled to have his or her trial transferred to another Kosovo court that he or she designates.
- b) In criminal cases in which all defendants and victims are members of the same national community, all members of the judicial council will be from a national community of their choice if any party so requests.
- c) A defendant in a criminal case tried in Kosovo courts is entitled to have at least one member of the judicial council hearing the case to be from his or her national community. Kosovo authorities will consider and allow judges of other courts in the Federal Republic of Yugoslavia to serve as Kosovo judges for these purposes. Constitutional Court

5. The Constitutional Court shall consist of nine judges. There shall be at least one Constitutional Court judge from each national community meeting the threshold specified in paragraph 1b) ii) of Article II. Until such time as the Parties agree to discontinue this arrangement, 5 judges of the Constitutional Court shall be selected from a list drawn up by the President of the European Court of Human Rights.

6. The Constitutional Court shall have authority to resolve disputes relating to the meaning of this Constitution. That authority shall include, but is not limited to, determining whether laws applicable in Kosovo, decisions or acts of the President, the Assembly, the Government, the Communes, and the national communities are compatible with this Constitution.

- a) Matters may be referred to the Constitutional Court by the President of Kosovo, the President or Vice-Presidents of the Assembly, the Ombudsman, the communal assemblies and councils, and any 17.national community acting according to its democratic procedures.
 - b) Any court which finds in the course of adjudicating a matter that the dispute depends on the answer to a question within the Constitutional Court's jurisdiction shall refer the issue to the Constitutional Court for a preliminary decision.
7. Following the exhaustion of other legal remedies, the Constitutional Court shall at the request of any person claiming to be a victim have jurisdiction over complaints that human rights and fundamental freedoms and the rights of members of national communities set forth in this Constitution have been violated by a public authority.
8. The Constitutional Court shall have such other jurisdiction as may be specified elsewhere in this Agreement or by law. Supreme Court
9. The Supreme Court shall consist of nine judges. There shall be at least one Supreme Court judge from each national community meeting the threshold specified in paragraph 1b) ii) of Article II.
- 10. The Supreme Court shall hear appeals from the District Courts and the Communal Courts. Except as otherwise provided in this Constitution, the Supreme Court shall be the court of final appeal for all cases arising under law applicable in Kosovo. Its decisions shall be recognized and executed by all authorities in the Federal Republic of Yugoslavia. Functioning of the Courts*
11. The Assembly shall determine the number of District and Communal Court judges necessary to meet current needs.
12. Judges of all courts in Kosovo shall be distinguished jurists of the highest moral character. They shall be broadly representative of the national communities of Kosovo..
13. Removal of a Kosovo judge shall require the consensus of the judges of the Constitutional Court. A Constitutional Court judge whose removal is in question shall not participate in the decision on his case.
14. The Constitutional Court shall adopt rules for itself and for other courts in Kosovo. The Constitutional and Supreme Courts shall each adopt decisions by majority vote of their members.

15. Except as otherwise specified in their rules, all Kosovo courts shall hold public proceedings. They shall issue published opinions setting forth the reasons for their decisions.

Article VI: Human Rights and Fundamental Freedoms

1. All authorities in Kosovo shall ensure internationally recognized human rights and fundamental freedoms.

2. The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Kosovo. Other internationally recognized human rights instruments enacted into law by the Kosovo Assembly shall also apply. These rights and freedoms shall have priority over all other law.

3. All courts, agencies, governmental institutions, and other public institutions of Kosovo or operating in relation to Kosovo shall conform to these human rights and fundamental freedoms.

Article VII: National Communities

1. National communities and their members shall have additional rights as set forth below in order to preserve and express their national, cultural, religious, and linguistic identities in accordance with international standards and the Helsinki Final Act. Such rights shall be exercised in conformity with human rights and fundamental freedoms.

2. Each national community may elect, through democratic means and in a manner consistent with the principles of 19. Chapter 3 of this Agreement, institutions to administer its affairs in Kosovo.

3. The national communities shall be subject to the laws applicable in Kosovo, provided that any act or decision concerning national communities must be non-discriminatory. The Assembly shall decide upon a procedure for resolving disputes between national communities.

4. The additional rights of the national communities, acting through their democratically elected institutions, are to:

a) preserve and protect their national, cultural, religious, and linguistic identities, including by:

i. inscribing local names of towns and villages, of squares and streets, and of other topographic names in the

- language and alphabet of the national community in addition to signs in Albanian and Serbian, consistent with decisions about style made by the communal institutions;
- ii. providing information in the language and alphabet of the national community;
 - iii. providing for education and establishing educational institutions, in particular for schooling in their own language and alphabet and in national culture and history, for which relevant authorities will provide financial assistance; curricula shall reflect a spirit of tolerance between national communities and respect for the rights of members of all national communities in accordance with international standards;
 - iv. enjoying unhindered contacts with representatives of their respective national communities, within the Federal Republic of Yugoslavia and abroad; 20.
 - v. using and displaying national symbols, including symbols of the Federal Republic of Yugoslavia and the Republic of Serbia;
 - vi. protecting national traditions on family law by, if the community decides, arranging rules in the field of inheritance; family and matrimonial relations; tutorship; and adoption;
 - vii. the preservation of sites of religious, historical, or cultural importance to the national community in cooperation with other authorities;
 - viii. implementing public health and social services on a non-discriminatory basis as to citizens and national communities;
 - ix. operating religious institutions in cooperation with religious authorities; and
 - x. participating in regional and international non-governmental organizations in accordance with procedures of these organizations;
- b) be guaranteed access to, and representation in, public broadcast media, including provisions for separate programming in relevant languages under the direction of those nominated by the respective national community on a fair and equitable basis; and