

Serbia: Spinning its Wheels

I. OVERVIEW

Serbia has used the first months of 2005 to good effect, instituting a major policy change on cooperation with the International Criminal Tribunal for the Former Yugoslavia in The Hague (ICTY) and sending signals that it is somewhat more willing to engage both the international community and Kosovo Albanians in dialogue about that province's status. This has paid off. Instead of the renewed isolation that threatened at the start of the year, it has received a green light from the European Union (EU) to begin negotiations on a Stabilisation and Association Agreement -- a significant if early step toward membership. Nevertheless, in other important areas, Belgrade's policies have been regressive. This "one step forward, one step backward" dichotomy means continued international pressure will be needed to ensure that reforms stick and real progress occurs.

The policy about-face on the ICTY, which involved "voluntary" decisions (under a good deal of government pressure) by a number of generals to turn themselves in for trial, is the best demonstration yet that coordinated and sustained EU-U.S conditionality policies can work. The U.S. had begun to reduce aid, and the EU had made it clear there would be no movement toward membership unless Belgrade began to cooperate with the Tribunal. The changes, however, are fragile and not self-sustaining. Cooperation with the ICTY has improved but remains superficial, while domestic efforts on war crimes trials are feeble.

Overall, the government of Premier Vojislav Kostunica still appears intent on rehabilitating significant portions of the Milosevic legacy by appointing Milosevic era personnel in the police, judiciary and military and by using the Djindjic assassination trial to attack pro-Western policies and politicians. Until it faces up to the real meaning of that legacy, its relations with other parts of the one-time Yugoslav state and the stability of the Western Balkans will be uncertain and Serbia will not be able to create stable relationships with its neighbours.

On a range of technical issues that are vitally important to potential integration with Europe, Serbia has been regressing since the Kostunica government came to power in March 2004. In particular, there has been

essentially no reform of the judiciary, which appears to be increasingly politicised, and of the police and military, both of which remain beyond democratic, civilian control. The draft of the new constitution threatens to move Serbia further away from Europe. The only real reforms to date are economic and have originated from the ministries controlled by the G17+ party, the most liberal member of a minority government that depends for survival upon the silent partnership of parties that are still loyal to Milosevic and his fellow ICTY detainee, the extreme nationalist Vojislav Seselj. Strong, coordinated international pressure will be necessary to prevent further backsliding.

II. WAR CRIMES

A. THE GOOD NEWS

2005 began ominously for the Kostunica government. Largely due to stubborn refusal to cooperate with the ICTY, Serbia appeared headed towards renewed diplomatic isolation. On 13 January (Serbian New Year's Eve) the U.S. State Department announced it was unable to certify compliance with conditions established by the Congress for foreign assistance. The timing of the announcement was intended to send a strong message since the State Department was not required to certify until 31 March, and in previous years it had delayed well past that date. Indeed, the next day Michael Polt, the Ambassador to Serbia and Montenegro, announced that substantial portions of Washington's aid were being cut, and technical advisers were to be withdrawn.

Shortly thereafter, the EU's foreign policy chief, Javier Solana, cancelled a planned trip to Belgrade, largely because of the ICTY issue. On 25 January, the European Commissioner for Enlargement, Ollie Rehn, did come, but to state clearly that Serbia's progress on European integration was being held up by the lack of cooperation with the Tribunal. It was obvious that Belgrade was not on course to get a positive evaluation in the Feasibility Study for negotiation of a Stability and Association Agreement the EU was wrapping up, particularly without surrendering Generals Vladimir Lazarevic, Sreten Lukic and Nebojsa Pavkovic, who had been living

openly in Serbia -- in some cases with army protection -- for over a year since their indictments.

Inside Kostunica's minority government coalition, the technocratic G17+ party, headed by Deputy Prime Minister Miroljub Labus and Finance Minister Mladjan Dinkic, sent clear signals it would withdraw if a favourable Feasibility Study was not forthcoming. This would have forced Kostunica either to call early elections or enter into an open coalition with Vojislav Seselj's far-right Serbian Radical Party (SRS). The first option was unattractive because opinion polls showed the popularity of his own Democratic Party of Serbia (DSS) hovering between 10 and 12 per cent, while its main rival, the Democratic Party (DS), was in the high 20s. The DSS has flirted with the SRS on numerous occasions and has entered into municipal government coalitions with it in a number of Serbian municipalities. The Kostunica government has also had to rely covertly on that extremist party to pass several key laws and has often acted as though it were a coalition partner. However, Kostunica fears that an open, republic-level parliamentary coalition would damage his party's reputation at home and abroad.

Faced with the G17+'s implicit ultimatum and increasing pressure from the EU and U.S., Kostunica made his choice. To save face and not appear to have backed down from his previous assertion that no one would be arrested, he needed the generals to surrender "voluntarily" to the Tribunal. That was also important for keeping the support not only of the SRS but also of former President Milosevic's Socialist Party of Serbia (SPS). The government had actually pressured the highest-profile indictees to turn themselves in late in 2004, but that approach failed. In January, however, prominent Serbian Orthodox Church clerics began to say that the country was suffering because of a few individuals, whose duty it was to turn themselves in so Serbia could move forward. The government also threatened that if they did not surrender voluntarily, they would be arrested and forcibly transferred to The Hague, in which case financial support for their families might not be made available under Serbia's controversial "Law on the Rights of Indictees in the Custody of the International Criminal Tribunal and Members of their Families". The government also launched a media offensive.

On 3 February 2005, the first fruits of this new policy became evident, when General Vladimir Lazarevic turned himself in to the Tribunal. The previous day Lazarevic received a well-publicised hero's send-off, meeting with Serbian Orthodox Patriarch Pavle and Kostunica in the Patriarchy, where Pavle praised his services and sacrifices for the country. Lazarevic was flown in a government jet to The Hague in the company

of Justice Minister Zoran Stojkovic.¹ By the end of the month, two more generals had surrendered.

On 16 March the EU sent a strong signal that it would hold the line on ICTY conditionality for the entire Western Balkan region when it announced it would delay membership talks with Croatia because an indicted general, Ante Gotovina, was still at large. At this point the Serbian government began waving a stick at the remaining holdouts, particularly the two most prominent, Generals Lukic and Pavkovic. It threatened to freeze bank accounts and cut off pensions, and an arrest warrant was issued for Pavkovic.² To positive media coverage, four more indictees surrendered themselves that month -- in one instance after police came to the individual's home.

In April Lukic "voluntarily" turned himself in, clad in bath robe and slippers at the hospital where he was undergoing medical treatment. By month's end, when two other generals, including Pavkovic, had followed, it was apparent the police had made a number of arrests that the government was painting as surrenders. The Serbian media and politicians treated the men as national heroes, with no mention of the crimes they were charged with. Serbia reaped the rewards of cooperation, receiving from the EU a positive Feasibility Study on 12 April and the go-ahead to negotiate a Stabilisation and Association Agreement on 25 April.

Serbia's response, belated and grudging though it was, testifies to the effectiveness of conditioning assistance and integration into Western institutions on cooperation with the ICTY, as Crisis Group has long argued.³ It suggests that the same kind of conditionality policy, if applied firmly and jointly by the U.S. and the EU to other vital policy issues, can be the key to resolving problems throughout the Western Balkans.

¹ It later became known that, as added incentive, Lazarevic's son had received a new car from Velimir Ilic, the minister for capital investment. "Ministar poklonio auto Lazarevicima," B92 website, 12 March 2005.

² The arrest warrant was not on the basis of the ICTY indictment, but rather for Pavkovic's failure to appear at two separate trials: the 2000 murder of former Serbian President Ivan Stambolic and the attempted assassinations (1999 and 2000) of Vuk Draskovic, now foreign minister of Serbia and Montenegro.

³ See, for example, Crisis Group Europe Report N°154, *Serbia's U-Turn*, 26 March 2004; Crisis Group Europe Report N°145, *Serbian Reform Stalls Again*, 17 July 2003.

B. THE BAD NEWS

In spite of this progress, however, the war crimes issue remains difficult. The Kostunica government is still predisposed against cooperation with the ICTY and war crimes trials, and the country's politicians are still trapped in a Milosevic-era, nationalist mindset that does not permit them to acknowledge the role Serbia played in the ethnic cleansing, genocide and other atrocities of the 1990s. This is reflected in a general reluctance to confront the past and the constant efforts to revile any who do so. It negatively influences Serbia's efforts to deal with Kosovo and its other neighbours and will have negative effects on regional stability as long as it persists.

The government has continually misled the public by asserting that the Tribunal will return high-profile ICTY indictees such as Lazarevic and Pavkovic to Serbia for trial. Yet, Serbia has undertaken no real steps to reform its judiciary or police in a manner that would permit this to occur. In October 2003 a report of the Organisation for Security and Cooperation in Europe (OSCE) found that its courts were far from ready to deal with war crimes trials, in terms of their legal and institutional framework, procedure, and ability to secure evidence and protect witnesses. It also cited government prejudice and refusal to accept the doctrine of command responsibility.⁴ Subsequently, Justice Minister Zoran Stojkovic has unapologetically presided over a general regression in the judiciary and has exercised political pressure on judges.⁵

In the first four months of 2005, there were several demonstrations that Serbia is not ready to deal with the legacy of the 1990s and that its courts, police and political system are still not competent to try cases that might eventually be transferred from the ICTY. Most prominent were revelations by several human rights groups that the police and State Security conducted mass cremations of Kosovo Albanian bodies in the furnace at the Mackatica factory in Surdulica during the 1999 conflict. The ministry of the interior, ministry of justice, and Security-Intelligence Agency (BIA) all rushed to cover up the incident by threatening and intimidating witnesses. Rather than immediately ordering an investigation, Stojkovic attempted to divert attention and justify inaction by speaking about war crimes committed earlier against Serbs in Croatia.⁶

Nearly four years after their discovery, the Serbian government has yet to reveal who was responsible for 710 bodies buried in a mass grave at a police training facility in the Belgrade suburb of Batajnica.⁷ Although it is obvious that the grave and the murders were state-sanctioned and employees of the police and state security were responsible, there is no political will to pursue the matter. The Serbian war crimes prosecutor, Vladimir Vukcevic, has stated that the "police take no initiative to detect crimes on their own", and "there is resistance in the MUP [Ministry of Internal Affairs] to policemen going out on their own and finding perpetrators".⁸

Serbia's record in trying war crimes cases is meagre. There have been only a handful of convictions, and there are now only three major trials ongoing: Sjeverin, Podujevo and Ovcara.⁹ In all three cases human rights organisations have criticised the prosecution for only indicting the direct perpetrators, and failing to pursue responsibility up the chain of command to discover who gave orders to commit the murders. The lower court convictions in the Sjeverin and Podujevo trials were overturned by the Serbian Supreme Court in late 2004, a decision that human rights groups have charged was due to political pressure.¹⁰ Although both cases are being retried, Serbian human rights organisations have expressed concern the procedure will not be effective.¹¹ The Ovcara case, which deals with the massacre of Croats by Serbs at Vukovar in 1991, appears to be proceeding properly, but no verdicts have yet been announced.

Several other events show the strength and support suspected war criminals still enjoy inside Serbia's governing structures. In early April 2005, the daily newspaper *Danas* announced that one of its reporters had been threatened by supporters of former Red Beret

⁷ There are an additional 125 bodies at Perucac/Bajina Basta (44) and Petrovo Selo (81). All these graves contain the bodies of Kosovo Albanians killed by Serb forces in Kosovo in 1999, then transported several hundred kilometres for reburial in Serbia proper.

⁸ "Optuznice za Batajnicu do kraja godine", *Nedeljni Telegraf*, 13 April 2005. Vukcevic is investigating the direct, but not the mid and high-level, perpetrators and has announced he will issue indictments by the end of 2005.

⁹ Ovcara deals with the murder of a group of 192 Croatian non-combatants in 1991 near Vukovar. Sjeverin deals with the kidnapping and murder of a group of seventeen Bosniak civilians in 1993. Podujevo deals with the murder of fourteen Albanian civilians in 1999.

¹⁰ "Dealing with the past: Serbia suppresses the truth," Humanitarian Law Centre Newsletter, No. 6, 3 February 2005.

¹¹ Humanitarian Law Centre Newsletter, No. 6, 3 February 2005.

⁴ "War Crimes Before Domestic Court: OSCE Monitoring And Empowering Of The Domestic Courts To Deal With War Crimes", OSCE Mission to Serbia and Montenegro, Human Rights and Rule of Law Department, October 2003.

⁵ Crisis Group interviews with Serbian human rights groups. "Ministar Stojkovic protiv sudije," B92 website, 6 May 2005.

⁶ Crisis Group interviews with ICTY; Humanitarian Law Centre Newsletter, No. 6, 3 February 2005.

commander Franko Simatovic,¹² who is on provisional release awaiting the beginning of his trial before the ICTY. Supporters of Simatovic and another ICTY indictee free on his own recognisance -- former State Security Chief Jovica Stanisic -- have also been connected to incidents in the western Vojvodina town of Sid, where a local citizen received death threats after he revealed information about war crimes committed by a paramilitary unit that participated in the Srebrenica massacre in Bosnia and the ethnic cleansing and murder of local Croats.

The risk that supporters of well-connected ICTY indictees will interpret the indictees' provisional release as a show of weakness by the Tribunal and attempt to intimidate witnesses and the justice system in Serbia is too high. The ICTY should re-examine its policy of releasing prior to trial indictees with this kind of influence, particularly when the Serbian government appears unwilling to monitor their activities effectively.

Kostunica and the DSS supported the Greater Serbia ideology of the 1990s, and the DSS continues to support eventual partition of Bosnia and Herzegovina (BiH) and annexation of a part to Serbia. Kostunica never criticized Milosevic for attempting to create a Greater Serbia, only for the losses he inflicted on the Serb nation, and his instinct is to defend those who participated in the enterprise. This thinking is clearly reflected by Justice Minister Stojkovic, who gained notoriety as a judge in communist Yugoslavia for politically-motivated rulings on cases involving freedom of speech.¹³

War crimes -- while difficult for some to confront -- must still be resolved fully before Serbia enters the EU. The unresolved war crimes of the Second World War helped fuel the Serbian nationalist drumbeat of the late 1980s and 1990s. Full and complete cooperation and disclosure from Serbia (and, of course, from Croatia and BiH as well) are necessary to ensure stability as the region's states head towards EU membership. Unlike Croatia's president, Stipe Mesic, neither Kostunica nor Serbian President Boris Tadic have yet found the insight and the courage to condemn publicly their own people's war crimes, their perpetrators and the legacy with which they have burdened their state.

III. KOSOVO POLICY

Serbia has long substituted rhetoric for policy on Kosovo, repeating the mantra that it can never be independent, while ignoring the political and demographic reality on the ground and the international mood. At the same time, Serbia's failure to confront the past -- particularly its ethnic cleansing in the province during 1998-1999 -- has cost it any moral credibility on the issue. It has failed to arrest army and police personnel responsible for the atrocities, and there has been no serious security sector reform. Instead, the government has actively supported and strengthened Serbian parallel structures in the province and blocked the work of the UN Mission (UNMIK).

As 2005 began, Belgrade politicians were again behaving in ways that seemed designed to provoke the Kosovo Albanians. In January, Kostunica visited Kosovo for Orthodox Christmas, followed by Tadic in February. Both made numerous strident statements that Kosovo was a part of Serbia and could never be independent.

In early March, however, officials began to signal that they were re-evaluating their Kosovo policy. This was caused primarily by the realisation the international community was planning to move on final status during 2005, with or without Serbia.¹⁴ The first hint was an interview Kostunica gave to the daily *Blic*, published on 3 March, in which he called for Kosovo to have a high degree of autonomy, while remaining within Serbia and the State Union of Serbia and Montenegro. He spoke of an "atypical solution" for the province and referred to other "atypical" solutions in the Balkans, such as the 2001 Ohrid Agreement in Macedonia, the 1995 Dayton Peace Accords on Bosnia, and the State Union itself.¹⁵ He also said there would be no return to old solutions and called for a compromise. The next day *Vecernje Novosti* published excerpts from a press conference in which Kostunica repeated the call for an "exceptionally high level of autonomy", but within Serbia and the State Union, again referred to "atypical solutions" and mentioned the possibility of finding a solution for Kosovo similar to the Dayton Accords. At the celebration of the 190th

¹² The Red Berets (now disbanded) was a State Security special forces unit that took part in fighting throughout Croatia, Bosnia and Kosovo. It was associated with some of the worst war crimes and human rights violations, and some of its members were responsible for political assassinations, including that of Prime Minister Zoran Djindjic.

¹³ Stojkovic banned a book by Nebojsa Popov, then a prominent opposition figure. He also presided over a political trial in 1984 against the Belgrade 6, a group of opposition intellectuals.

¹⁴ Crisis Group has strongly advocated action on final status in 2005: Crisis Group Europe Report N°161, *Kosovo: Towards Final Status*, 24 January 2005.

¹⁵ These are very different cases. The 2001 Ohrid Agreement, which ended the Macedonian conflict, provided for a unitary state with stronger and reformed municipal government, and enhanced minority rights. The Serbia-Montenegro State Union ties its two constituent republics together under a thin confederal roof. The Dayton Accords established Bosnia and Herzegovina as a single state with two entities, one of which is centralised and the other further decentralised into ten cantons.

anniversary of the second Serbian uprising against the Ottoman Empire, on 24 April, he reiterated that Serbia was ready for compromise, but without changing its borders.¹⁶

Similar themes have been repeated by all Serbia's leading politicians, including President Tadic, Deputy Premier Labus, Foreign Minister Vuk Draskovic, Coordination Centre head Nebojsa Covic and Bogoljub Karic, a prominent Kosovo Serb. All spoke of the need for compromise and a two-entity system to give Kosovo's remaining Serbs special protection. Importantly, the far-right wing of Serbian politics signed off on the concept, when SRS leader Tomislav Nikolic stated his party was "prepared to accept the highest level of autonomy" for Kosovo.¹⁷

On the basis of these statements it appears that Serbia is now prepared to work towards a compromise solution that would offer Kosovo very extensive autonomy, while keeping it de jure inside Serbia and the State Union. The form such a settlement would take is still rather ill-defined, and Belgrade seems open to ideas. Kostunica has mentioned a Dayton-like settlement; Draskovic has mentioned status similar to South Tyrol in Italy; Slavisa Petkovic, the Serb minister for minority communities and return in the Kosovo Provisional Government (PISG) has called for Kosovo to have economic autonomy similar to that enjoyed by Bavaria in Germany; Karic, who leads Serbia's third most popular party, has called for creation of a special EU region.¹⁸

The slogan "more than autonomy and less than independence" summarises current thinking, with the form that "more than autonomy" would take wide-open for negotiation. This marks real progress but thinking has not yet caught up with that in the international community, and the spectrum for engagement is still quite narrow.

The real bottom line is probably that Belgrade politicians want a face-saving solution that would permit them to say they were not the ones to lose Kosovo. They have little desire to return Serbian rule to Albanian-majority

areas; their main concern is to find a territorial solution for the three northern, Serbian-majority municipalities and the northern part of the divided city of Mitrovica. But this policy is still developing, and it is not yet certain whether Serbia may be inclined to push for an actual separation of the northern areas from the rest of Kosovo, as such a "hard partition" would make life untenable for the majority of Kosovo's Serbs, who live in enclaves farther south. What is clear, however, is that Belgrade's politicians desperately want an international conference on Kosovo's final status that will give them the necessary political coverage back home to claim -- if necessary -- they had no choice in whatever settlement was reached.

In addition to the announced willingness to seek a compromise, other changes are increasingly evident. The constant drumbeat of anti-UNMIK and anti-Albanian propaganda on Serbian state media seems to have moderated slightly since early April 2005. On two occasions, Tadic called for a meeting with Kosovo President Ibrahim Rugova, who refused both times, while Kostunica has also called for face-to-face meetings with Kosovo Prime Minister Bajram Kosumi, who has answered positively, but failed to agree on a date, thus enabling Belgrade to present itself as the reasonable party and the Kosovo Albanians as the obstructionists. At a 22 April Serbian republic-level leadership meeting that included Tadic, Kostunica and Covic, the government announced three main conclusions regarding Kosovo. Two were positive: that dialogue should continue through Belgrade-Pristina working groups on missing persons, energy and other "technical" areas; and that there should also be direct political dialogue, in particular contact between Tadic and Rugova. One was less positive: insistence that Belgrade appoint the Kosovo Serb representatives in the Kosovo working group on decentralisation.

Even though Belgrade has taken a new public approach to Kosovo, this is limited exclusively to the status question. On the ground, it continues to obstruct international efforts. Most noticeable is continued insistence that it represents Kosovo Serbs, and they should boycott the PISG institutions. This was repeated at a 10 May meeting of the Council of the Government of Serbia for Kosovo and Metohija, presided over by Kostunica. However, some Kosovo Serb politicians are growing increasingly impatient with Belgrade and favour abandoning the boycott. They are led most noticeably by Oliver Ivanovic, Goran Bogdanovic and Randjel Nojkic of the "Serbian List for Kosovo and Metohija". Slavisa Petkovic has gone further, thumbing his nose at Belgrade's instructions by joining the PISG in February 2005 as head of its new ministry of returns and communities and setting up a political party to succeed his "Serb Civic List".

¹⁶ "Vojislav Kostunica, Predsednik Vlade Srbije", *Blic*, 3 March 2005. "Novi Dejton za Kosmet," *Vecernje Novosti*, 4 March 2005. "Kompromis s granicama", B92 website, 24 April 2005.

¹⁷ "Nikolić: Koštunica me uverio", B92 website, 22 April 2005.

¹⁸ Karic's Movement for the Strength of Serbia (PSS) has only one deputy in the Serbian parliament. The "free land of Kosovo" solution proposed by a group clustered around his political protégé in Kosovo, Momcilo Trajkovic, also proposes Bavaria as a model for the level of autonomy Kosovo should enjoy within Serbia.

IV. EUROPEAN INTEGRATION

Serbia often presents contradictory images to the world. On the one hand, visitors cannot but be impressed by the friendliness and hospitality of the people as well as the genuine pride they have in their country, most evident at the annual meeting of the European Bank for Reconstruction and Development (EBRD). Following the fall of Milosevic, the pace of reform from January 2001 until November 2001 was remarkable. Cooperation with the two key international financial institutions -- the IMF and World Bank -- has been good, and in 2004 GDP grew by 7 per cent. President Tadic espouses pro-Western and democratic values, as does his Democratic Party (DS), which opinion polls show will be one of the top two vote-getters in any new parliamentary elections. The rhetoric of the current government is often pro-Western, and the parliament has voted almost unanimously to set EU membership as a national goal. Tadic recently proposed a "European Charter" to commit all parties and government employees to European integration as the only policy option for Serbia. The recent movement on war crimes and Kosovo policy has also sent positive signals.

On the other hand, visitors cannot but notice the legacy of war, from bombed-out buildings to the sale of calendars celebrating the two Bosnian Serbs most sought by the Tribunal, Ratko Mladic and Radovan Karadzic. The single largest parliamentary party is the ultra-nationalist SRS, and 70 per cent of all deputies come from parties that hold anti-Western views and are sceptical about reform in general and European integration in particular. Security sector reforms have been largely nonexistent, with neither police nor army subject to democratic civilian control. The judiciary and media are also yet to undergo meaningful reform. The economy is beginning to show signs of stagflation, and many Serbs feel bitter about the results of the post-Milosevic transition.

The government has rehabilitated many individuals and policies from the Milosevic era, and the trial of Zoran Djindjic's presumed assassins has become a mockery, essentially placing the late premier himself on trial. Statements by Premier Kostunica and his allies hint that Serbia does not regard Bosnia's territory as sacrosanct. Anti-Western rhetoric is common, and the government stubbornly refuses to distance itself from the more problematic elements of the Milosevic era. A recent example was the creation in Serbia of a government in exile of the Republic of the Serbian Krajina, the puppet state that existed inside Croatia from 1991 until 1995. This raised tensions with Croatia and heightened the sense of vulnerability of Croatia's Serbian minority.

Although official Belgrade does not appear to have been behind this action, it has neither condemned nor distanced itself from it. So too, Kostunica and his government have remained silent about a high profile public meeting held on 17 May at the Belgrade Law School that presented the "truth" about the Srebrenica massacre, glorifying Ratko Mladic.

Since the Kostunica government came to power in March 2004, the parliament has passed 97 laws and amendments to laws in five broad categories: 1) budget/fiscal/taxation; 2) business/economic; 3) social and health care/ecology; 4) judiciary; and 5) government/public institutions/state enterprises. Of the 97, 51 (in categories 1, 2, and 3) may be clearly characterised as reformist, or as assisting in modernising Serbia and bringing it closer to Europe. All these are essentially economic in nature and originated in ministries controlled by the technocratic G17+ political party,¹⁹ which represents the only element of continuity between the current government and that of Djindjic.

The sixteen measures relating to the judiciary (category 4) are cautious amendments, however, not the wholesale reform of an outdated legal system that is needed. Most noticeably, they fail to introduce new, educated and uncompromised people into the system, while essentially amnestying bureaucrats and judges who have managed to hold on from the Milosevic era.

The 29 laws regulating government, public institutions and state enterprises (category 5) are a mixed lot. While some are crucial for establishing new standards and rules in government practice,²⁰ a number, such as the "Railway Act" and the "Electrical Company Act", regulate state-owned monopolies and utilities in a manner reminiscent of the communist era. Others are simply procedural.

All told, a majority of the laws are reformist. However, most of those are economic and do not address the underlying issue that will most clearly affect Serbia's ability to enter the EU and have the greatest impact on whether there can be lasting regional peace and stability: the legacy of the Milosevic era. The "Law on the Rights of Indictees in the Custody of the International Criminal Tribunal and Members of their Families" actually protects that legacy, not least by rewarding financially the families of those who carried out the former president's crimes, even though the parliament has yet to pass a measure offering financial redress to his many victims who were citizens of Serbia.

¹⁹ These ministries are finance, health care and agriculture.

²⁰ Examples include: "Access to Public Information Act", "Electronic Signature Act", "Elected Officials and Public Servants Conflict of Interest Act", "Labour Act", and "Sanitary Inspection Act".

The most glaring omission in the work of the current parliament and government is the failure to establish any democratic civilian control over the army, police (the interior ministry, MUP) and Security-Intelligence Agency (BIA). None of these organisations has been cleared of Milosevic personnel. All have their independent sources of income that are not subject to parliamentary approval and some of which may be illegal. Key individuals within them often appear to protect war crimes indictees, and the army has been accused of providing bodyguards for Mladic and Pavkovic, even though both were pensioned off several years ago. All the organisations continue to collect material against political rivals, and have been accused of blackmailing democratically elected politicians. The Serbian media typically refers to them as the "hidden centres of power". In essence, each continues to act as a state-within-a-state.

The one measure regarding the army was the "Transfer of Jurisdiction from the Military Judiciary to the Civilian", which merely moved redundant military prosecutors and judges into the civilian judicial system, while leaving them, not the regular civilian judges, solely responsible for trying military cases. In a clearly backward step, the "Public Procurement Act" -- passed under the previous parliament to make public procurement transparent -- was waived for the interior ministry (MUP), though that ministry has been at the centre of numerous procurement scandals, and its employees have frequently been connected to narcotics trafficking, political assassinations and other crimes.

These unreformed centres of power act as a brake on Serbia's progress towards European integration, as they fight not only to protect the Milosevic legacy but also the power and privileges they illegally amassed. They can be expected to continue to oppose efforts to establish the rule of law and effectively functioning governmental institutions. Kostunica has shown little willingness to combat them. Rather, he acts as if they are his natural allies.

What was to have been the centrepiece of a Kostunica administration -- a new Serbian constitution -- is still under discussion. The current draft contains problematic clauses that could actually push Serbia further from Europe, including some in direct violation of the Council of Europe's conventions on human rights (ratified by Serbia and Montenegro), particularly regarding habeas corpus. If passed in this form, the constitution would erect a serious legal barrier between Serbia and the EU and so increase incentives for Montenegro to leave the State Union. The draft also appears to propose an increase in the already high degree of centralisation. Its language regarding regionalisation is a rhetorical nod to the EU but the proposed regions would have no power.

V. CONCLUSION

Serbia's minority government appears stable, and it may well last out its four-year mandate. This is in large part due to the fact that the official coalition of DSS, G17+, New Serbia (NS) and Serbian Movement of Renewal (SPO) enjoys significant under-the-table support from the Seselj (SRS) and Milosevic (SPS) parties.

Those parties, whose real leaders are both on trial before the ICTY, enjoy the prerogatives of power with none of the responsibilities. They realise that Kostunica's political ideology is similar to theirs, that without their active support his government would fall and that following new elections, the opposition DS might well be able to form a very different coalition and resume its attempt to dismantle the ideological legacy of the Milosevic era. They welcome or at least are satisfied with G17+ efforts to reform the economy, while Kostunica permits the old-line ideologues to retrench and preach their values to the country.

This dichotomy in Serbia's political life means that as long as G17+ is in the current government, the international community can expect to see progress on economic reforms. Nonetheless, in the absence of a significant change of heart by the DSS and/or an effort to bring the DS into the coalition, little will happen in terms of reforming the fundamental manner in which Serbian government and society function. Without continued international pressure, including clear conditionality, Serbia's reform forces are likely to find themselves overmatched against the recidivist pressure that comes from the nationalist parties. The result would be a Serbia that gradually regains economic strength, while remaining a source of potential instability in the region.

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