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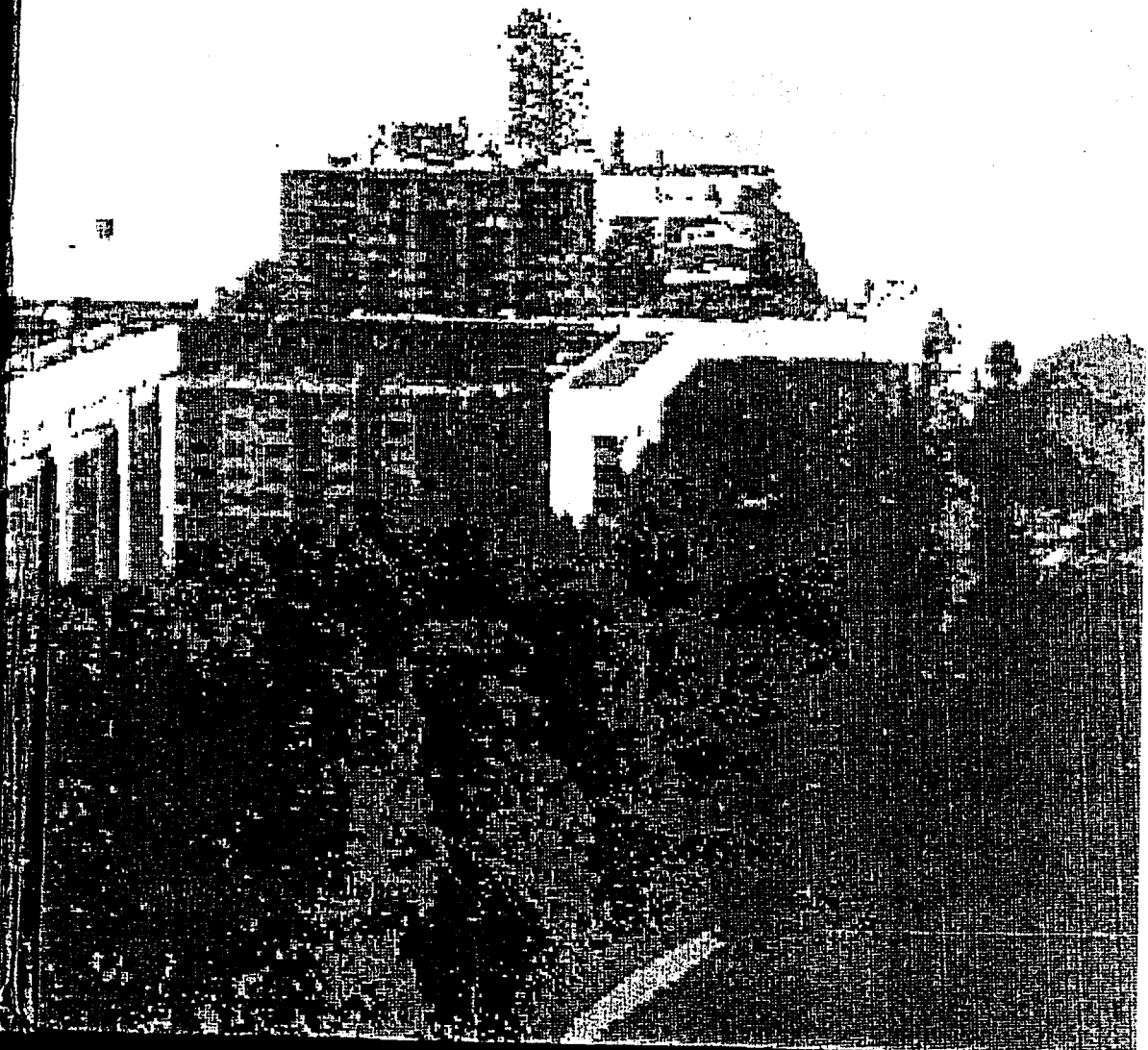
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Yugoslavia Through Documents

From its creation to its dissolution

Edited by
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No. 123

[EC] DECLARATION ON YUGOSLAVIA

The Hague, 18 October 1991¹³¹

The European Community and its member States, the United States of America and the Union of the Soviet Socialist Republics are deeply concerned by the continuing violence and bloodshed in Yugoslavia. None of the cease-fire accords agreed on over the last three months appear to have been implemented in full. We are convinced that cease-fire accords offer the only path away from further worsening of this conflict and towards a peaceful and just resolution.

We call upon the Presidents of the Republics, who will participate in Friday's plenary meeting of the Conference on Yugoslavia, to reaffirm their commitment to the peace process and to adhere absolutely to the commitments they have already made.

In calling for an end to hostilities and observance of the cease-fire agreements, we are motivated by concern for the fate of all peoples of Yugoslavia, for the right of all ethnic minorities, and for the future of the Balkan region and of Europe as a whole. We are distressed by the terrible violence and loss of life that has occurred and by the possibility of even worse suffering if the conflict is not resolved. We are particularly disturbed by reports of continued attacks on civilian targets by elements of the federal armed forces and by both Serbian and Croatian irregular forces. The continuation of military activities in Croatia threatens to extend the armed confrontation to other regions of Yugoslavia.

Our common desire is to promote a speedy and complete halt to all military activities as an essential precondition to a settlement. We condemn the use of force for the settlement of political differences. We also reject the use of force to change established borders, whether internal or external. Such actions are totally unacceptable in 1991 in the heart of Europe. The principles of the Conference on Security and Cooperation in Europe with regard to borders, minority rights and political pluralism guide our approach towards resolution of this conflict and should be respected and adhered to by the parties in Yugoslavia themselves. We will not accept any outcome that violates these principles.

Croatia and the Yugoslav National Army should make a serious start with discussion about the status of the Yugoslav National Army in the interim period. The European Community, through its monitor mission or otherwise, could facilitate this process.

The United States of America and the Union of the Soviet Socialist Republics reiterate their full support for the efforts of the European Community and its member States, under mandate by the Conference on Security and Cooperation in Europe, to mediate a peaceful resolution to the Yugoslav crisis, in

¹³¹ UN Doc. S/23155, Annex.

particular through the Conference on Yugoslavia and the Arbitration Commission set up within its framework.

The United States of America and the Union of Soviet Socialist Republics express their readiness to support restrictive measures applied by the European Community to help achieve a successful outcome of the Conference on Yugoslavia.

The European Community and its member States, the United States of America and the Union of Soviet Socialist Republics also endorse the efforts of the Secretary-General of the United Nations to further the prospects for a peaceful settlement.

No. 124

PEACE CONFERENCE ON YUGOSLAVIA: ARRANGEMENTS FOR GENERAL SETTLEMENT [THE SO-CALLED CARRINGTON DRAFT CONVENTION]

The Hague, 18 October 1991¹³²I. *General*

- 1.1 The arrangements for a general settlement of the Yugoslav crisis will comprise the following components:
 - a) Sovereign and independent republics with international personality for those that wish it;
 - b) A free association of the republics with an international personality as envisaged in these arrangements;
 - c) Comprehensive arrangements, including supervisory mechanisms for the protection of human rights and special status for certain groups and areas;
 - d) European involvement, where appropriate;
 - e) In the framework of a general settlement, recognition of the independence, within the existing borders, unless otherwise agreed, of those republics wishing it.
- 1.2 The republics recognize that cooperation between them and the creation of this association is part of the process of building a new Europe envisaged in the Paris Charter of November 1990, and will improve the prospects for cooperation and closer relations with the European Community. They will cooperate in the fields for which these arrangements provide and other agreed fields, without thereby precluding closer forms of cooperation in such areas between republics that so wish.

¹³² UN Doc. S/23169, Annex V

II. *Human Rights and Rights of Ethnic and National Groups*

a) Human rights

2.1 The republics will remain committed to the fundamental principles of human rights. These are embodied, in particular, in the following:

- The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights of the United Nations;
- The Final Act of the Conference on Security and Cooperation in Europe, the Charter of Paris for a New Europe and the other CSCE documents relating to the human dimension, in particular the document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE and the Document of the Moscow meeting of the Conference on the Human Dimension of the CSCE;
- The Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols of this Convention.

b) Rights of national and ethnic groups

2.2 The Republics reaffirm their commitment to the principles of human rights as particularly applied to national or ethnic groups. These are, in particular, embodied in:

- The instruments of the United Nations, CSCE and the Council of Europe as set out in paragraph 1;
 - The Conventions for the Elimination of Racial Discrimination, the Convention against Genocide and the Convention on the Rights of the Child of the United Nations;
 - The report of the CSCE meeting of experts on national minorities held in Geneva.
- In working out these arrangements for a general settlement they will keep in mind:
- Proposals for a United Nations declaration of the rights of persons of national, ethnic and linguistic minorities;
 - The proposal for a convention for the protection of minorities of the European Commission for democracy and law in the framework of the Council of Europe.

2.3 Persons belonging to a national or ethnic group, not forming a majority in the area where they live, will enjoy the following rights:

- The principle of non-discrimination as set out in the legal instruments mentioned in paragraph 2.1;

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- All cultural rights as set out in the legal instruments mentioned in paragraph 2.2, in particular the right to identity, culture, religion, use of language and alphabet both in public and private, and education;
- Protection of equal participation in public affairs such as the exercise of political and economic freedoms, in the social sphere, in access to the media and in the field of education and cultural affairs generally;
- The right to decide to which national or ethnic group he or she wishes to belong, and to exercise any rights pertaining to this choice as an individual or in association with others. This will particularly apply in the case of marriage between persons of different national or ethnic groups. Those persons of the same national or ethnic group living distant from others of the same origin, for example in isolated villages, shall be granted a practicable degree of self-administration.

The above principles shall also apply in areas where members of the main national or ethnic group of a Republic are numerically inferior to one or more other national or ethnic groups in that area.

2.4 In respect of persons belonging to a national or ethnic group forming a substantial part of the population in the area where they live but not forming a majority; in addition to the principles set out in paragraph 2.3, a general right of participation of members of this group in public affairs must be granted. On the level of central government, they must be able to participate in decision-making by the central government concerning their affairs.

c) Special status

2.5 In addition, areas in which persons belonging to a national or ethnic group form a majority, will enjoy a special status (autonomy). Such will provide for:

- a. The right to have and show the national emblems of that group;
 - b. The right to a second nationality for members of that group in addition to the nationality of the republic;
 - c. An educational system which respects the values and needs of that group;
 - d.
 - i. A legislative body
 - ii. An administrative structure, including a regional police force;
 - iii. And a judiciaryresponsible for matters concerning the area which reflects the composition of the population of the area;
 - e. Provisions for appropriate international monitoring
- The status set out above will apply, in particular, to the Serbs living in areas in Croatia where they form a majority.

d) General provisions

- 2.6 It is recognized that persons belonging to a national or ethnic group, in exercising their rights, must respect the rights of the majority and of persons belonging to other groups.
- 2.7 Without prejudice to the implementation of the arrangements set forth in paragraph 2.5, the republics will apply fully and in good faith established provisions for the benefit of ethnic and national groups, and for autonomous provinces which were given a special constitutional status.
- 2.8 The republics should jointly, or individually as the case may be, become parties to international instruments in the field of human rights, including related complaint procedures. They will moreover give effect to the principles set out in paragraphs 2.1 and 2.2 in their respective legislation.
- 2.9 The republics will provide, by legislation and through national institutions, an effective remedy for breaches of any of the arrangements concerning human rights set out above.
- 2.10 As none of the republics will have an ethnically homogeneous population, they will cooperate and consult one another in respect of matters dealt with in paragraph 2.3 to 2.5.

III. *Other Areas of Cooperation*

a) Economic relations

- 3.1 The republics recognize their interest in establishing appropriate measures for economic cooperation among themselves.
- 3.2 The republics will base their policies on the principles of market economy, private property and free enterprise, and openness to world trade.
- 3.3 The republics will form a customs union preserving a common internal market, where goods move without either tariff barriers or quantitative restrictions. The common internal market will involve a common external tariff, a common foreign trade policy and an agreed formula for sharing customs receipts.
- 3.4 Freedom of movement will also apply to some services, such as those offered by the professions for which a right of establishment is recognized.
- 3.5 In addition, the republics will cooperate to limit the adverse effects of other obstacles impeding the free movement of goods, such as technical standards, subsidies and regulations affecting trade, by taking flanking measures, such as sharing information, concerning policy objectives and, if necessary, harmonizing rules and regulations which distort competition.
- 3.6 As a start to this process, the republics will take flanking measures in certain designated policy areas, such as:
- Transport and infrastructure;

- Competition.

- 3.7 They will also cooperate in taking measures for the protection of the environment.
- 3.8 Furthermore the republics will cooperate in monetary matters. As a minimum, in the absence of a common currency and currency convertibility, they will consider the establishment of a common payments system, based upon a clearing mechanism for their transactions and a reserve fund.

b) Foreign affairs and security

- 4.1 The republics will consult on all matters of common interest in the areas of foreign affairs and security, and will cooperate where they can agree on common positions, with the possibility of common representation in specific areas agreed between them.
- 4.2 Relations between the republics, individually or jointly, will be based on CSCE commitments. They may decide to apply between themselves the practices and procedures agreed in CSCE, among others, notification of unusual military activities.
- 4.3 The republics will decide for themselves what armed forces to have or allow on their territory and what cooperative defence arrangements to have among themselves.

c) Legal cooperation

5. The republics will consult and cooperate in the field of legal cooperation, such as control of international crime, terrorism and drug trafficking, in accordance with European and international standards, such as those developed in the Council of Europe and the United Nations, and, will seek, individually or jointly, to become parties to international conventions in these matters.

IV. *Institutions*

6. The republics will establish the following institutional arrangements to effect the above-mentioned cooperation. They may add other arrangements to the extent that they agree to further cooperation in those or other fields.

a) Human rights

- 7.1 The republics will establish a Court for Human Rights having jurisdiction within the republics to consider appeals from courts in the republics involving questions dealt with in paragraphs 2.1 to 2.5 above. This Court will include members from all the republics.

- 7.2 The republics will consider the establishment of mixed commissions, where these might assist in avoiding or dealing with disputes concerning human rights and the rights of ethnic or national groups and questions related to special status.
- 7.3 The institutions mentioned in paragraphs 7.1 and 7.2 above will include the participation of persons drawn from European States other than the republics.
- b) Economic relations
- 8.1 The republics will establish a Council of Ministers for Economic Cooperation, composed of Ministers, one from each republic. The Council will take decisions by consensus except where otherwise agreed. The Presidency of the Council will be taken by Ministers rotating every six months. The Council will meet every month or otherwise as agreed.
- 8.2 Meetings of the Council will be prepared by a Committee of Senior Officials from each republic, meeting weekly. Specialized standing committees to prepare proposals to the council will be established.
- 8.3 An Executive Committee, headed by a Secretary General appointed for four years and assisted by a permanent secretariat, will make recommendations, monitor decisions and service meetings.
- 8.4 In external relations on matters covered by agreed arrangements or policies in the internal market, customs union or economic and monetary cooperation, the Council will, where necessary, agree on common positions for the conduct of negotiations with third countries including the making of international agreements. In such negotiations it will decide whether to be represented by the Presidency or the Secretary General of the executive Committee.
- c) Political and security cooperation
- 9.1 The republics will establish a Council for political and Security Cooperation composed of Foreign Ministers for the purpose of cooperation as envisaged in paragraphs 4.1 to 4.3. It will meet monthly unless otherwise agreed. It will have a six-monthly rotating presidency.
- 9.2 When agreement on a common approach can be reached by all or some republics, those republics will be guided by it.
- 9.3 When common positions can be reached by consensus, a decision can be taken whether to invite the President of one of the republics to speak or act for the association.
- 9.4 The Council may discuss any security matters raised by any republic. The Council may decide by consensus on defence cooperation.

- 9.5 Meetings of the Council will be prepared by senior officials from foreign ministries.
- d) Legal cooperation
10. Ministers will meet every six months under arrangements to be made by the republics in rotation to discuss matters in the field of legal cooperation envisaged above.
- e) Parliamentary body
11. The republics will consider the establishment of a parliamentary body to discuss matters arising out of these arrangements.
- f) Arbitration
12. Any dispute between republics concerning the implementation or application of legal instruments giving effect to these arrangements will be subject to binding arbitration initiated at the request of any republic which considers that another republic is in breach of any of its obligations.
- g) Location of institutions
13. The institutions envisaged above will be located in different republics.

[Editor's note: Serbia rejected the solutions envisaged in the proposal of 18 October 1991. In his address the President of the Republic of Serbia, Slobodan Milosevic said the following:

"We cannot accept the tendered proposal for resolving the Yugoslav crisis as it suspends the present constitutional order and abolishes Yugoslavia as a state which has been in existence for 70 years. Only the Yugoslav peoples who created this state can adopt the decision to abolish it. To this end I will point to the characteristics of the suggested arrangements obtained yesterday and which undoubtedly reflect efforts to resolve contradictions and eliminate shortcomings in the future work of the Conference. Therefore the proposal put before us is unacceptable.

First, we are very much surprised, after the otherwise correct statement of the Conference's leadership that no results have been forthcoming in the work groups and plenary sessions prior to these proposals, that no mechanism has been set in motion to put an end to the misunderstandings and blockade inherent in the Conference, namely the Commission of Arbitration. There have been a number of major disputes in the stands over issues representing vital principles in international law and constituting the basis of the entire world order today.

Notable among the disputed issues on which the Commission of Arbitration should have adopted a stand are the following:

1. Who should be the entity of the right to self-determination, the people or the federal unit?
2. Legality of secession in international law and the conditions under which such secession can be realized.
3. The status of internal or administrative frontiers and of external or state frontiers from the aspect of universal international law, the Final Act of Helsinki and the Paris Charter, as well as many other issues mentioned in this document.

We had expected that in view of their distinctive character, these questions would have been considered meritoriously by such an eminent group, which would have ensured a solution based not only on law but on justice.

However, the Commission on Arbitration was circumvented entirely, and so the suggested solution largely failed to rely on legality and continuity, justice and equal respect for the interests of all the participants.

Second, the suggested arrangements for a general agreement on the Yugoslav crisis suspended the now valid constitutional and legal order in Yugoslavia and provide for elements envisaging a completely new constitutional order in the political expanses at present the site of Yugoslavia as she is today. They not only break off the internal constitutional continuity of Yugoslavia, but abolish Yugoslavia as a state which has been in existence continuously for over seventy years. No decision on the abolition of a state can be adopted by any international forum, not even by the supreme constitutional authority in the country. Such a decision can be adopted only by the entities which at the time created this state. Yugoslavia was created by the Yugoslav peoples and any decision to abolish it must be adopted by means of a people's referendum. None of the participants at the Conference have the authorization to accede to these arrangements, nor does the Conference as a forum have this right.

Third, within the valid constitutional order in the country, ignored in these proposals in its entirety, only the existing federal units and their frontiers have been taken into consideration. These federal units were formed during or just after World War II and their frontiers never were defined in any verified legal act.

Fourth, these proposals legalize the unilateral acts of secession adopted by some of the republics, and which the Constitutional Court of Yugoslavia declared null and void as being unconstitutional. The unilateral secession of the republics was the original cause of armed conflicts as this secession threatened the integrity of country and people. The simple legalization of such a state of affairs would not only violate the principles of legal order, but undoubtedly would fail to remove the fundamental causes of the armed conflicts in Yugoslavia. Ignoring the true causes of the crisis would only draw us further away from a lasting and stable peace in Yugoslavia. The existing federal units created by the conception of Yugoslavia's federal state order are objectively not capacitated to become a sovereign and independent states, the basic precondition in the said arrangements.

Fifth, we hope it has now become clear to one and all that the focal point of the fighting in Yugoslavia is the question of the status of the Serbian people in Croatia, who for the second time in a half century are in danger of extermination. There can be no just solution to the Yugoslav crisis without insurance that the personal and national existence of the Serbian people will be protected. Only if this solution is a fair solution, meaning equitable respect for the interests vital to the Serbian and other five constituent nations of Yugoslavia, will peace be restored on a lasting basis and conditions ensured for the successful development of all peoples. There is no objective reason why any of the Yugoslav peoples should suffer any losses in the resolution of the Yugoslav crisis.

Some of the proposed solutions envisaging a special status for the Autonomous Regions Krajina and Slavonija, Baranja and West Srem, contained in the "Arrangements for a general Solution" represent a good starting point, but some of their chapter are incomplete, and others vague and contradictory. It is commendable that a legislative and executive authority has been suggested including the Regions' own police force and legislation. Under the circumstances this is not enough, if at the same time there is no guarantee of complete and lasting demilitarization of these territories, meaning precluding the possible presence of any kind of military formations. Instead of the vaguely described international control of this special status there should be firm and clear cut guarantees on the part of the international community laid down by international treaty hand in hand with a standing international body for its control.

Obviously the proposal leaves many open questions requiring clearer and better solutions. Work should continue on studying these issues already identified by the work groups and within the Commission of Arbitration. Essentially and in principle no questions should be resolved separately, but only within a global agreement. This means no question can be considered as settled (unless the issue is completely isolated) as long as no agreement has been reached on all disputed issues. I do not see how international recognition of any republic could become valid before vital disputed interests have been settled.

I consider it in the interest of all the participants in the Agreement for all the solutions tendered in this document to be improved by removing the shortcomings I have noted. The activities of

the work groups so far indicate that the economic order might well provide for solutions which would ensure a higher degree of integration than would a customs union, and several republics have expressed opinions pointing in this direction. A customs union is an unstable arrangement as experience has shown; usually this union either falls apart or else develops into a higher form of integration, an economic union with free circulation of production factors. I consider that regarding the payments system among the members of the customs union or higher forms of integration there might be a better solution than a non-market clearing model.

We hope the Conference on Yugoslavia will continue work in all its forms and that, always striving for peace, solutions will be found according equal respect to the interests of all, especially observing the principles of legality and justice.

This approach to the draft solution of the Yugoslav crisis is based on the fact that Yugoslavia is one of the founders of the UN and member of all universal international organizations, that on four occasions she participated in the international peace-keeping forces, that she is a signatory of all legislative treaties on which the present international legal order is founded."]

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No. 125

THE SFRY PRESIDENCY POINTS OF DEPARTURE FOR RESOLVING THE STATE-POLITICAL CRISIS IN YUGOSLAVIA

22 October 1991¹³³

The Presidency of the SFRY, bearing in mind the efforts exerted so far to resolve the Yugoslav state-political crisis in a peaceful, democratic and constitutional manner, and particularly the results of the work of the Conference on Yugoslavia in The Hague - the function of which is to extend appropriate help to the competent Yugoslav authorities through its "good offices" in the speedier finding of generally acceptable solutions, by these Points of Departure wishes, within its constitutional functions and responsibilities, to render its contribution to the resolution of the Yugoslav crisis and clearly state its position on the future of Yugoslavia.

To that same end, the Presidency of the SFRY has defined its positions vis-a-vis the proposals of Lord Carrington, set out in the "Arrangement for the Global resolution of the Yugoslav Crisis" presented in the statement of Dr. Branko Kostic, Vice-President of the Presidency of the SFRY.

These Points of Departure are the result of several months of work and fact-finding of the Presidency of the SFRY. They are based on the will of the Yugoslav nations expressed through referenda and in their multiparty parliaments.

The direct objective of this document is to present the basic standpoints of the Presidency of the SFRY, to be proceeded from in resolving the Yugoslav crisis.

At its session of October 22, 1991 the Presidency of the SFRY drew up the Points of Departure for Resolving the State-Political Crisis in Yugoslavia and agreed to submit them to the following:

¹³³ Review of International Affairs, Vol. XLII (5-X-5.XI 1991), p. 14.